FIRST LIST OF CORRECTIONS TO THE LAND ACQUISITION MANUAL.

SECOND LIST OF CORRECTIONS TO THE LAND ACQUISITION MANUAL.

OFFICE OF THE CURATOR, GOVERNMENT BOOKS
17 APR 1929

DIRECTOR OF AGRICULTURE
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THE

LAND ACQUISITION MANUAL

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INTRODUCTION.

It is a well-established principle that all statutory provisions and rules having the force of law should be strictly complied with, and that the burden of proof of compliance rests upon those who claim statutory powers or base their actions upon the exercise of statutory provisions. Instances have from time to time come to the notice of the Government in which irregularities and illegalities vitiating the proceedings have been committed by officers entrusted with Land Acquisition work. Inexperienced officers, especially, are apt to overlook legal formalities and technical details of procedure. The Government have therefore prepared this manual of information relating to proceedings under the Land Acquisition Act for the use of the officers responsible for those proceedings. The scope of the manual is to present in a form readily available for reference by those officers information relating to general principles and the details of the procedure to be followed at each stage of the proceedings with a view to help them to avoid illegalities and irregularities.

TABLE OF CONTENTS.

			PAGES
PART I	...	The Land Acquisition Act, 1894 (Act No. I of 1894), as amended by Act XXXVIII of 1923.	1 to 27
PART II	...	Standing Orders of the Board of Revenue, Nos. 90 and 91	29 to 68
PART III	...	General Principles and Procedure	69 to 140
PART IV	...	Appendices	141 to 260

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PART I

THE LAND ACQUISITION ACT, 1894 (ACT No. I OF 1894), AS AMENDED BY ACT XXXVIII OF 1923.

PART I

THE LAND ACQUISITION ACT, 1894 (I OF 1894), AS AMENDED BY ACT XXXVIII OF 1923.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.

PART II.

ACQUISITION.

Preliminary Investigation.

4. Publication of preliminary notification, and powers of officers thereupon.
5. Payment for damage.

Declaration of intended Acquisition.

6. Declaration that land is required for a public purpose.
7. After declaration, Collector to take order for acquisition.
8. Land to be marked out, measured and planned.
9. Notice to persons interested.
10. Power to require and enforce the making of statements as to names and interests.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

11. Enquiry and award by Collector.
12. Award of Collector when to be final.
13. Adjournment of enquiry.
14. Power to summon and enforce attendance of witnesses and production of documents.
15. Matters to be considered and neglected.

Taking Possession.

16. Power to take possession.
17. Special powers in cases of urgency.

PART III.

Reference to Court and Procedure thereon.

Sections.

18. Reference to Court.
19. Collector's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters to be neglected in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Costs.
28. Collector may be directed to pay interest on excess compensation.

PART IV.

Apportionment of Compensation.

29. Particulars of apportionment to be specified.
30. Dispute as to apportionment.

PART V.

Payment.

31. Payment of compensation or deposit of same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.

Temporary Occupation of Land.

35. Temporary occupation of waste or arable land.
Procedure when difference as to compensation exists.
36. Power to enter and take possession, and compensation on restoration.
37. Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

SECTIONS.

38. Company may be authorized to enter and survey.
39. Previous consent of Local Government and execution of agreement necessary.
40. Previous enquiry.
41. Agreement with Secretary of State in Council.
42. Publication of agreement.
43. Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.
44. How agreement between Railway Company and Secretary of State may be proved.

PART VIII.

MISCELLANEOUS.

45. Service of notices.
46. Penalty for obstructing acquisition of land.
47. Magistrate to enforce surrender.
48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.
49. Acquisition of part of house or building.
50. Acquisition of land at cost of a local authority or Company.
51. Exemption from stamp-duty and fees.
52. Notice in case of suits for anything done in pursuance of Act.
53. Code of Civil Procedure to apply to proceedings before Court.
54. Appeals in proceedings before Court.
55. Power to make rules.

ACT NO. I OF 1894

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (*1*) This Act may be called the Land Acquisition Act, 1894. **Short title, extent and commencement.**

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of March, 1894.

X of 1870. ***2.** (*1*) * * *

(*2*) But all proceedings commenced, officers appointed or authorized, agreements published and rules made under the Land Acquisition Act, 1870, shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act.

(*3*) Any enactment or document referring to the Land Acquisition Act, 1870, or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless there is something repugnant in the subject or context,— **Definitions.**

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

* Repealed by Act X of 1920.

(*Part I.—Preliminary.*)

(*c*) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act:

(*d*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*e*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912: **VI of 1882.**

(*f*) the expression "public purpose" includes the provision of village-sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision: and

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

XIV of 1882 (*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

Acquisition.

Preliminary Investigation.

Publication of preliminary notification, and powers of officers thereupon.

4. (*1*) Whenever it appears to the Local Government that land in any locality is needed or likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(*Part II.—Acquisition.*)

(*2*) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officers so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Objections.

Hearing of objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (*1*), as being needed or likely to be needed for a public purpose or for a company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(*2*) Every objection under sub-section (*1*) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such

(*Part II.—Acquisition.*)

objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(*3*) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended Acquisition.

6. (*1*) Subject to the provisions of Part VII of this Act, when the Local Government is satisfied after considering the report, if any, made under section 5 A, sub-section (*2*), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders: **Declaration that land is required for a public purpose.**

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(*2*) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(*3*) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a company, the Local Government, or some officer authorized by the Local Government in this behalf shall direct the Collector to take order for the acquisition of the land. **After declaration, Collector to take order for acquisition.**

(*Part II.—Acquisition.*)

Land to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (*1*) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(*2*) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866.[1] **XIV of 1866**

Power to require and enforce the making of statements as to names and interests.

10. (*1*) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest,

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[1] *See* now the Indian Post Office Act, 1898 (VI of 1898), General Acts, Vol. VI.

(*Part II.—Acquisition.*)

and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(*2*) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860

Enquiry into Measurements, Value and Claims, and Award by the Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (*1*), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of— Enquiry and award by Collector.

(*i*) the true area of the land;

(*ii*) the compensation which in his opinion should be allowed for the land; and

(*iii*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested. Award of Collector when to be final.

(*2*) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him. Adjournment of enquiry.

(Part II.—Acquisition.)

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure. XIV of 1882

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking possession.

Power to take possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in cases of urgency.

17. (*1*) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (*1*), take possession of any waste or arable land needed for public purposes or for a company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(*2*) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after publication of the notice mentioned in sub-section (*1*) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(*3*) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(*4*) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (*1*) or sub-section (*2*) are applicable, the Local Government may direct that the provisions of section 5-A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (*1*).

PART III.

Reference to Court and Procedure thereon.

18. (*1*) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. Reference to Court.

(*2*) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (*2*), or within six months from the date of the Collector's award, whichever period shall first expire.

(Part III.—Reference to Court and Procedure thereon.)

Collector's statement to the Court.

19. (*1*) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(*b*) the names of the persons whom he has reason to think interested in such land;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(*2*) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

(Part III.—Reference to Court and Procedure thereon.)

Matters to be considered in determining compensation.

23. (*1*) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the notification under section 4, sub-section (1);

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(*2*) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1).

Rules as to amount of compensation.

25. (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. (*1*) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (*1*) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

*(Part III.—Reference to Court and Procedure thereon.
Part IV.—Apportionment of Compensation.)*

(*2*) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2) and section 2, clause (9) respectively of the Code of Civil Procedure, 1908.

27. (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid. Costs.

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court. Collector may be directed to pay interest on excess compensation.

PART IV.

Apportionment of Compensation.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment. Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. Dispute as to apportionment.

(*Part V.—Payment.*)

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (*1*) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(*2*) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and [1]competent to contract in respect thereof.

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[1] As to persons who are competent to contract, *see* s. 11 of the Indian Contract Act, 1872 (IX of 1872), General Acts, Vol. II, p. 302.

(*Part V.—Payment.*)

32. (*1*) If any money shall be deposited in Court under sub-section (*2*) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall— Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an Investment of money deposited in other cases.

interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

Temporary Occupation of Land.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (*1*) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(*2*) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(*3*) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

(Part VI.—Temporary Occupation of Land. Part VII.—Acquisition of Land for Companies.)

36. (*1*) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(*2*) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

PART VII.

Acquisition of Land for Companies.

38. (*1*) The Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Company may be authorized to enter and survey.

(*2*) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous consent of Local Government and execution of agreement necessary.

(*Part VII.—Acquisition of Land for Companies.*)

Previous enquiry.

40. (*1*) Such consent shall not be given unless the Local Government be satisfied, either on the report of the Collector under section 5-A, sub-section (2) or by an enquiry held as hereinafter provided,—

(*a*) that such acquisition is needed for the construction of some work, and

(*b*) that such work is likely to prove useful to the public.

(*2*) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(*3*) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of [1]Civil Procedure in the case of a Civil Court. XIV of 1882

Agreement with Secretary of State in Council.

41. If the Local Government is satisfied after considering the report if any of the Collector under section 5-A, sub-section (2) or on the report of the officer making an enquiry under section 40 that the proposed acquisition is needed for the construction of work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely:—

(*1*) the payment to Government of the cost of the acquisition;

(*2*) the transfer, on such payment, of the land to the Company;

(*3*) the terms on which the land shall be held by the Company;

(*4*) the time within which, and the conditions on which, the work shall be executed and maintained; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon

[1] *See* the revised edition as modified up to 1st December 1899.

(Part VII.—Acquisition of Land for Companies. Part VIII.—Miscellaneous.)

(so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the [1]Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

X of 1870.

How agreement between Railway Company and Secretary of State may be proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (*1*) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and in the case of any other notice, by or by order of the Collector or the Judge.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collecfor or in the court-house, and also in some conspicuous part of the land to be acquired:

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[1] Repealed by the present Act.

(Part VIII.—Miscellaneous.)

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the [1]Indian Post Office Act, 1866, and service of it may be provided by the production of the addressee's receipt. XIV of 1866

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (*1*) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(*2*) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(*3*) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

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[1] *See* now the Indian Post Office Act, 1898 (VI of 1898), General Acts, Vol. VI, p. 683.

(*Part VIII.—Miscellaneous.*)

49. (*1*) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired: Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(*2*) If in the case of any claim under section 23, sub-section (*1*), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(*3*) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

50. (*1*) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company. Acquisition of land at cost of a local authority or Company.

(*Part VIII.—Miscellaneous.*)

(*2*) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act. XIV of 1882.

Appeals in proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under the Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.

Power to make rules.

55. (*1*) The Local Government shall have power to make rules[1] consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

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[1] For rules under this section for—

(*1*) Ajmer-Merwara, *see* Ajmere List of Local Rules and Orders, Ed. 1902, p. 12;

(*2*) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 59;

(*3*) United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 40.

(*Part VIII.—Miscellaneous.*)

(*2*) The power to make, alter and add to rules under sub-section (*1*) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(*3*) All such rules, alterations and additions shall be published in the official Gazette, and shall thereupon have the force of law, provided that where the provisions of this Act are put in force for the acquisition of land

(*a*) for the purposes of any railway, or

(*b*) for such other purposes, connected with the administration of a central subject as defined in section 45-A of the Government of India Act, as the Governor General in Council may, by notification in the *Gazette of India*, declare in this behalf,

the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor-General in Council.

PART II

STANDING ORDERS OF THE BOARD OF REVENUE
Nos. 90 AND 91.

PART II

STANDING ORDERS OF THE BOARD OF REVENUE Nos. 90 AND 91.

BOARD'S STANDING ORDER No. 90.

ACQUISITION OF LAND FOR PUBLIC PURPOSES.

[NOTE.—The terms 'local boards', 'local body', 'local board', 'local authority' and 'local fund' wherever they occur in this Standing Order include the Village Panchayats constituted under the Madras Village Panchayat Courts Act XV of 1920.]

Section (i)—General Instructions.

1. *Land Acquisition Act I of* 1894 *as amended by Act XXXVIII of* 1923.—(i) By Act I of 1894 Government are empowered to acquire compulsorily any land which is not already the property of Government and which is required for a public purpose or under the special circumstances described in Part VII of the Act for a company.

(ii) Whenever land which is not already the property of Government is permanently required for Government purposes it should invariably be taken up under Act I of 1894, as acquisition under the Act confers an indefeasible title.

(iii) The Act should not be employed when the Government dispute the title to any land or when one department of Government desires to obtain land in the possession of another department. In the latter case reference should be made to the head of the department concerned.

(B.P. Mis. No. 5803, dated 19th November 1895 ; I.L.R., Vol. VII, see page 817 ; B.P. No. 302, dated 9th September 1897.)

(iv) Land must not ordinarily be entered upon or taken possession of otherwise than in accordance with the provisions of the Act and it should be remembered that no subsequent proceedings under the Act will have retrospective effect or validate action previously taken. If in order to save life or property or for the purposes named in section 4 (2) of the Act, it is necessary to take possession of the land before the provisions of the Act have been complied with, the officer taking action should previously obtain the consent in writing of the owner of the land.

2. (i) It is not desirable that land required for Government purposes should be acquired by free gift or by private purchase. Formal proceedings should always be initiated under the Land Acquisition Act for the acquisition of land for a Government department. There is no objection however to local officers negotiating with the owners of land about to be acquired for a public purpose, with the object of coming to an amicable agreement with them as to the price to be paid previous to the initiation of proceedings under the Land Acquisition Act and with a view to guarding against subsequent exorbitant demands or awards; provided that this procedure will result in economy. Any settlement thus arrived at should be communicated to the Land Acquisition Officer, who though not bound to accept in his award the price agreed on beforehand will no doubt do so in ordinary cases. The settlement must take the form of an agreement that the owner is willing to sell for a certain specified sum *plus* 15 per cent of that sum for compensation, the total of the two sums being the actual price agreed on.

(ii) The practice of awarding a nominal compensation in cases in which the owner is willing to make a free gift of the land is illegal and does not give Government an absolute title to the land, as other persons interested in the land can question the validity of the transaction on the ground of want of adequate consideration. The proper procedure in such cases is to pass an award under section 11 for the full market value of the land. The owner who is willing to make a free gift of the land may receive the compensation awarded and make a gift of the amount of the compensation to the Government to be utilized for the public purpose for which the land was acquired.

(G.O. No. 1697, Revenue, dated 30th August 1927.)

(iii) There is no objection to local bodies obtaining land required for their purposes by private purchase or by a deed of gift. It will be left to the local body concerned to decide in each case whether it will acquire the land required by private negotiation or whether it will approach the Government for its acquisition under the provisions of the Land Acquisition Act.

3. *Selection of sites.*—The officer who selects the land on behalf of the requiring department is bound to see that the interests of Government, of the public and of private individuals are duly considered and that sites and alignments are chosen so as to cause the minimum of expenditure, annoyance and loss compatible with the object for which the land is required. Whenever it is proposed to acquire a site for a building, attention should be paid, among other things, to architectural conditions. Thus, if there is a choice of site between a prominent corner lot which is not occupied by any suitable building and a more ordinary site in which the

Pages 33–34, *paragraph* 5.—*For* the existing eighth and ninth sentences *substitute*—

"When a special officer is employed for the acquisition of land for any department, the expenditure on account of his pay, allowances, establishment, contingencies, etc., is chargeable to that department as part of the cost of land. When the land is taken up by a civil officer, not specially employed for the work, his pay and allowances and the charges of his ordinary establishment and contingencies will be debited to land revenue; but any special charges incurred in connection with the acquisition of the land in question, on establishment, contingencies, etc., should be borne by the department for which the land is acquired."

[XVI list, 12-3-31]

Government building in contemplation would be hidden away by other buildings of no consequence, the site, the construction of buildings on which will improve the amenities of the locality, should be preferred.

4. *Districts where village site may be provided by the State.*—[a] In districts other than those noted in the margin, land required for the formation or extension of village sites in ryotwari areas may be acquired under the provisions of the Act, Government having declared under section 3, clause (*f*) of the Act that in such districts it is customary for the State to provide village sites.[a] The Government do not ordinarily recognize any obligation to provide village sites in permanently settled villages.[b]

Madras, the Nilgiris, South Kanara, Malabar.

(a B.P. No. 196, dated 17th June 1895 ; b G.O. No. 2497, Revenue, dated 28th August 1914.)

5. *Special Officer for acquisition of land.*—Whenever land is required for an extensive public work, a special officer should be employed in connexion with the acquisition of the land. The additional charge involved will generally be more than counterbalanced by greater economy in the payment of compensation and the saving of interest and other charges consequent on a prompter settlement of claims. An officer specially appointed for the acquisition of land for public works will obtain funds and make disbursements and account for them in the same manner as an officer of the Public Works Department. In other respects he will be under the control of the Collector of the district in which he is working. To avoid delay, however, he will be permitted to correspond direct with the authorities on whose behalf the land is being acquired regarding land plans, etc., and to send necessary draft notifications in all ordinary cases to Government direct, but should send them through the Board of Revenue in cases in which special difficulties or questions of principle arise. In all cases of acquisition of lands on behalf of companies and local bodies the cost of special establishments employed and the incidental charges incurred will be debited to the acquiring body concerned as laid down in section 50 (1) of the Land Acquisition Act. When lands are acquired for a department of the Central Government, the cost of acquisition (including the incidental charges and the cost of the special staff, if any, employed) should be debited to the Government of India under rule 8 of the Secretary of State's Rules. In other cases where no special officer is appointed the incidental charges connected with the acquisition of land will be treated as land revenue contingencies and the cost of any special establishment temporarily employed under revenue officers will be debited to land revenue. When, however, a special officer is appointed the cost of the establishment employed and the incidental charges incurred will be debited to the project in

connexion with which the acquisition is made. Every special officer appointed as above should be given a staff sufficient to carry out the survey operations described in paragraph 13 below. The special officer will be held responsible for the accuracy of the survey work done by his staff and it is therefore essential that he himself should have been trained in survey. The special officer should invariably consult the Collector[a] of the District[a] as to the lines on which the survey operations should be carried out, as these must necessarily vary with the nature of the existing cadastral survey of the tract.

(B.P. No. 391, dated 25th October 1895 ; B.P. No. 335, dated 20th May 1889 ; B.P. No. 249, dated 15th March 1888 ; B.P. No. 1025, dated 18th December 1888 ; G.O. No. 2124, Revenue, dated 18th September 1916 ; B.P. No. 269 (Settlement), dated 4th October 1916 ; G.O. No. 1148, Revenue, dated 14th July 1926 and a B.P. No. 72, dated 19th December 1925.)

Section (ii).—*Preliminary Proceedings.*

6. *Application.*—(i) In all cases in which land is required by a department of Government other than the Revenue Department or has to be acquired for local fund or municipal purposes, the department or local body concerned should send an application in the prescribed form [Appendix XII (1)] direct to the Revenue Divisional Officer, and send a copy of the application to the District Collector. The certificates required in the application should be supplied and if for any reasons any of them cannot be supplied, the reasons therefor should be clearly explained.

When land is required for the Revenue Department, the Collector himself will initiate proceedings either of his own motion or under the orders of the Board of Revenue or Government.

The application for land should show clearly the purpose for which the land is required. The limits of the land and such other particulars as may be necessary for the identification of the land, should also be specified. To facilitate joint inspection, it is necessary to mention the name and designation of the officer who can identify the land required and who has authority to decide himself or subject to confirmation by a superior officer any doubtful points that are likely to arise during such inspection.

(ii) A plan of the locality should accompany the application. This plan should, wherever possible, be based on and connected with the revenue cadastral survey, all measurements in the plan being given in links except in the case of plans furnished by the Public Works Department in which the measurements may be entered in terms of feet. In the case of land required for railways or other large projects, the department concerned should furnish a separate sketch map for each district affected by the project showing the exact course of the centre line of the land to be taken up and

containing references to villages and towns. This map should be drawn to a scale of 1 inch to the mile and should show village boundaries wherever they have been surveyed. The distances should also be marked upon it, and the average width of the strip to be taken up should be stated. For land near towns, or which for other reasons is likely to have a specially high value, a map on a sufficiently large scale should be prepared showing the approximate boundaries of the land likely to be required with a note of any valuable trees, buildings or other property for which compensation will have to be paid in addition to the price of the land itself.

(G.O. No. 1079, Revenue, dated 11th May 1920; B.P. No. 82, Settlement, dated 14th June 1920 and B.P. No. 43, dated 1st February 1896.)

NOTE.—For form of application, please see Appendix XII (1).

7. *Notification under section* 4 (1) *of the Act*—(i) *Notification.*—The Land Acquisition Amendment Act XXXVIII of 1923 has made the publication of a notification under section 4 (1) of the Act not only a preliminary to entry on the land but also a necessity in every case as it is a legal notice to persons interested that they may prefer objections to the proposed acquisition. The Revenue Divisional Officer receiving an application for the acquisition of land or the orders of the District Collector to start acquisition proceedings for land required for the Revenue Department should arrange immediately for the inspection of the land and for the preparation of a notification under section 4 (1) of the Act. The notification should be prepared in the form given in Appendix XII (2) and forwarded through the District Collector to the department applying for the land. In the case of large acquisitions it may not be possible to fill up all the columns in the form; in such cases, the requirements of law will be satisfied if a description is given such as would enable the persons interested to ascertain what is proposed to be acquired. As the compensation to be paid for the land is determined by its market value at the date of the publication of this notification, there should be no avoidable delay in its submission.

All information necessary for the preparation of the valuation statement should be collected at the time of the enquiry made for the submission of the draft notification and the statement should where possible accompany the draft notification. Where it is not possible to submit the statement along with the notification, the latter should not be delayed on this account but should be submitted immediately it is ready. Where the owner or occupier of the land objects to the Revenue Officer's entry on the land, the notification must be prepared with the information already available.

The officer who is to perform the duties of a Collector under the Act should be mentioned in the notification. Whenever circumstances necessitating the application of sub-sections (1) and (2) of

section 17 of the Act exist they should be stated and the notification amended dispensing with the application of the provisions of section 5-A of the Act. It should be borne in mind that under the provisions of section 17 (4) of the Act exemption from section 5-A can be sanctioned only in cases to which the provisions of sub-section (1) or (2) of section 17 are applicable and that sub-section (1) is applicable only to waste or arable land. Even if the persons interested in the land are willing to part with it, the enquiry under section 5-A may be dispensed with only if it is a case of urgency to which the provisions of section 17 (1) or (2) may be applied. In all cases in which exemption from section 5-A is proposed it should be clearly explained how the case falls under sub-section (1) or (2) of section 17 and in cases covered by sub-section (1) the letter forwarding the notification should state explicitly that the lands included in it are either waste or arable and do not contain any building. The term 'arable land' includes land cultivated with annual or seasonal crops.

(G.Os. No. 506, Revenue, dated 26th March 1924, No. 1248, Revenue, dated 13th August 1924 and No. 792, Revenue, dated 17th May 1926.)

(ii) *Publication of the notification.*—On receipt of the notification the department requiring the land should submit it for the approval of Government and publication in the *Fort St. George Gazette*, intimating the sanction accorded for the acquisition. A local body receiving the notification should submit it through the Revenue Divisional Officer and the District Collector to the Local Self-Government Department of the Government Secretariat together with a copy of the resolution approving the proposal.

The Government will direct the publication of the notification should they approve of the proposed acquisition. The notification should be published only in English in the *Fort St. George Gazette*. It need not be republished either in English or in the vernacular in the District Gazette.

8. *Joint inspection—Preliminary valuation statement*—(i) *Inspection.*—The Revenue Divisional Officer will either personally or through a Tahsildar or Revenue Inspector inspect the locality and will be accompanied when necessary by an officer of the department or local body requiring the land. While joint inspection will as a rule be found necessary, cases will frequently occur when the presence of the departmental officer may not be required for identifying the land to be acquired, as for example, when a whole survey field or a plot about which there is no doubt or dispute as to the boundary is required, or when the application is accompanied by a plan correctly prepared from the survey records in which case there is no possibility of inaccuracy. But his presence may still be necessary, e.g., when there are objections to the acquisition or the

Page 37.—*Add* the following as a note under paragraph 8 (i) of Board's Standing Order No. 90:—

NOTE.—Where the acquisition is made on behalf of a local body or company, the local body or company should either arrange to demarcate the land with stones of proper size or within three weeks after the publication of the notification under section 4 (1) of the Act, deposit with the Collector the necessary funds to meet the demarcation charges, failing which the Collector will take steps to withdraw the land from acquisition.

[XVII list, 11-5-31]

price appears prohibitive, to decide whether some alteration in the boundaries or change in the site would not serve the purpose equally well. It will be for the Revenue Officer who will generally be the Tahsildar to decide in what cases the departmental officer should attend and in what cases his presence is not necessary. In cases where he considers joint inspection necessary, he should fix a date and give notice to the department concerned, which will then depute to attend on that date an officer who can identify the land required and who has authority to decide himself, or subject to confirmation by a superior officer, any doubtful points that are likely to arise. The inspecting officers should make known their visit in advance so that the parties interested may be present at the time of their visit.

(ii) *Preliminary valuation statement.*—(1) At the time of the inspection, the land should be identified and staked out. If the plan received from the department applying for the land is not sufficiently detailed to allow of the preparation of the preliminary valuation statement, such further measurements should be taken during the inspection as are found necessary to enable the statement to be prepared. A detailed survey of the land need not be effected at this stage. All that is necessary is to take sufficient measurements to enable the land to be properly identified in the cadastral village and field maps and to obtain the approximate areas of portions of fields to be acquired.

(2) If the lands selected for acquisition contain any religious buildings, tombs or graveyards, a statement of their particulars should be prepared with a confidential note dealing with the nature of and weight to be attached to religious objections which have already been raised or are likely to be raised by persons directly or indirectly interested or by any section of the public. If no objections have been raised or are anticipated, the fact should be stated and it should at the same time, be explained whether in the event of acquisition the demolition of the buildings or obliteration of the tombs will be necessary.

(3) The inspecting officer should at the time of inspection prepare a statement in the form given in Appendix XII (4) showing the position and area of the land and the probable cost of acquisition. The statement should also be signed by the officer of the department requiring the land if he was also present at the inspection. In valuing lands, details should always be obtained from sub-registration offices of land sales in the locality within the preceding three years and these should be carefully verified on the ground to see how far they can be safely accepted. When buildings with substantial structures which are considered by the revenue officers to be likely to cost more than Rs. 2,500 have to be acquired

they should be valued by the officers of the Public Works Department unless through distance or other cause this course would cause undue delay.

(4) The Tahsildar will be held personally responsible for the correctness of the entries in the valuation statement. When the inspecting officer is a Revenue Inspector, the Tahsildar should check the statement and submit it with the least practicable delay, unless it has already been submitted along with the notification under section 4 (1) to the Revenue Divisional Officer who should check the valuation and scrutinize delays on the part of his subordinates and then forward it through the District Collector to the department or local body concerned. The entries in columns 5 to 7 of the statement will, as a rule, be based on information obtained from village authorities. Those in columns 13 to 17 should contain the most accurate possible estimate of the value of the land and other property to be acquired. When only part of a registered revenue field is required the fact should be noted in column 7.

On receipt of the valuation statement the department concerned will submit it to the Government with full information as to the source from which the funds may be provided or applying for an allotment of funds. A local body receiving the valuation statement will submit it to the Local Self-Government Department of the Government Secretariat with full information as to the manner in which it is proposed to find the requisite funds.

(5) In the case of large projects, such as railways, canals, etc., Collectors may in lieu of the statement prescribed above furnish data in the following specimen form showing the estimated average value per acre as near as may be for the different classes of land in the localities affected by the project :—

Miles.	Rupees per acre.			Remarks.
	Cultivated.		Uncultivated.	
	Irrigated.	Unirrigated.		
3—15	80 *	30	10	Town lands of Rampur. Land within municipal limits will cost about Rs. 900 an acre and in the town itself say Rs. 3 a square yard.
15—17	300	120	30	
17—27	50	25	5	

* Land under tea will average about Rs. 800 per acre.

NOTE.—In the case of railways these data should represent only the value of the land, inclusive of tenants' rights, but exclusive of the value of houses, trees, standing crops, etc., on the land the approximate cost of which should be separately furnished by the Revenue Department. That department should in addition also give a rough estimate of the amount of such

further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act and also, where necessary, an estimate of payments to be made direct to the proprietors of the area acquired in lieu of abatement of land revenue and charges for establishment and contingencies. Special care should be taken by the Revenue Department to furnish as accurate a data as possible, so as to prevent inaccurate estimating.

(G.O. No. 1959, Revenue, dated 14th August 1920, and B.P. No. 5, dated 8th February 1921).

(6) At the time of the enquiry under section 5-A or before that date the Collector should, if necessary, check the valuation previously made by his subordinates and report to the department concerned any changes which he may consider necessary in the preliminary valuation.

9. *Objections to acquisition enquiry.*—After the publication of the notification under section 4 (1) of the Act, the officer appointed to perform the functions of the Collector should give public notice of the proposed acquisition and hold an enquiry into the objections preferred, if any, in accordance with the rules (vide Appendix I) framed by Government under section 55 of the Act.

In enquiring into the objections the Collector will be guided by the following instructions:—

(1) Besides publishing the notice as prescribed in rule 1 of Appendix I the Collector should see that individual notices are served as far as possible on every person known or believed to be interested in the land to be acquired in the manner prescribed by sub-sections 3 and 4 of section 9 of the Land Acquisition Act of 1894. In cases * in which it has been impossible at the time of the issue of the notification under section 4 (1) so to describe all or any of the lands to be acquired that the persons interested therein can understand that their lands are likely to be needed for the public purpose, the individual notice should be issued as soon as the necessary details are available allowing fifteen days thereafter for the presentation of objections to the acquisition.

(2) The Collector's enquiry should deal especially with the following classes of objections to acquisition, if they are urged :—

(*a*) that the purpose for which the land is acquired is not a bona fide public purpose;

(*b*) that the particular land notified is not the best adapted to the purpose intended or that its area is greater than is actually required for the purpose;

(*c*) that the acquisition of the land or any land in the locality is not desirable or expedient.

(G.O. No. 1718, Revenue, dated 21st November 1923.)

* (G.O. No. 196, Revenue, dated 6th February 1926.)

10. *Preparation, etc., of draft declaration.*—The Collector should submit to Government through the Collector of the district and the Board of Revenue the records of enquiry with his final report and a draft declaration under section 6 of the Act in the form prescribed in Appendix XII (5) as also a copy of it in the vernacular of the district. He should also report on all objection petitions received by him after the due date which in his opinion are valid or reasonable though in respect of such petitions he need not observe the formalities prescribed in section 5-A of the Act and in rule 3 of the rules issued under section 55 of the Act.

(G.O. No. 1718, Revenue, dated 21st November 1923.)

In cases of acquisition of land on behalf of the Public Works Department the District Collector should when submitting the report under section 5-A and the draft declaration under section 6 to the Board of Revenue, also send a copy of the draft declaration to the Executive Engineer concerned who will submit it to Government in the Public Works Department through his Superintending Engineer in the manner prescribed in G.O. No. 1903 W., dated 30th September 1913.

(G.O. No. 1771, Revenue, dated 13th November 1925.)

Should Government approve of the acquisition, the draft declaration under section 6 of the Act will be duly published in English in the *Fort St. George Gazette* and in English and in the vernacular of the district in the District Gazette. If on the other hand Government decide to give up the acquisition a notice withdrawing from such acquisition should be published.

(G.O. No. 2173, Revenue, dated 1st November 1927.)

11. *Temporary occupation.*—Sections 35 to 37 of the Land Acquisition Act prescribe the procedure to be followed in securing temporary occupation of waste or arable land.

A plan of the land of which temporary occupation is desired will be furnished by the department concerned with a statement of the purpose and the period for which the land is required, accompanied by a request that an estimate may be furnished of the probable cost of occupation. The Collector will have an estimate and an application prepared in the form given in Appendix XII (12), enquire into the objections to the occupation if any and forward the estimate to the department concerned together with a statement embodying the result of his enquiry into the objections raised. The department concerned will obtain the sanction of Government for the temporary occupation. A local body receiving such an estimate will submit it to Government through the Collector of the district.

Page 41.—*For* the existing note under paragraph 12 of Board's Standing Order No. 90 *substitute*—

NOTE.—Where the acquisition is made on behalf of a local body or company, the local body or company should deposit with the Collector the necessary funds within three weeks after the publication of the draft declaration, failing which the Collector will take steps to withdraw the land from acquisition.

[XVII list, 11-5-31]

On receipt of the orders of Government the Collector will award compensation for temporary occupation in the manner laid down in sub-sections 2 and 3 of section 35. He will then take possession of the land and hand it over to the department concerned.

Section (iii)—Procedure after the publication of the declaration under section 6 of the Act.

12. *After publication of declaration.*—After the publication of the declaration above referred to, the Collector or other officer specially appointed to perform the functions of a Collector will proceed to acquire the land in the manner directed by the Act. Notice must be issued quickly and the award passed as promptly as possible. If a number of fields are being acquired and the enquiry has not been completed for all of them, an award may be passed for those fields for which the enquiry has been completed and a separate award or awards may be passed subsequently for the remaining fields. The award should not be delayed merely because the ownership of the land is in dispute. It has been held that the Collector is in no sense of the term a judicial officer, and that the proceeding before him is not a judicial proceeding. He acts as the agent of the Government. If the owner of the land desires a judicial decision as to its value or rival claimants as to their title, they can obtain it by requiring the matter to be referred by the Collector to the court under section 18. The Collector can also of his own motion refer disputes of title to the civil court under section 30, and should do so in all difficult cases. If during the proceedings under section 11 of the Act for the acquisition of lands for a railway company it becomes apparent that the cost of the land will exceed the amount of the sanctioned estimate, the Collector should report the excess to the Railway Administration concerned and furnish fresh data for the revision of the estimate. The award must be in the form prescribed [Appendix XII (8)] which should be filled up by the Land Acquisition Officer in his own handwriting. He must also write a separate order recording his reasons for arriving at the findings recorded in the form.

NOTE.—Where the acquisition is made on behalf of a local body or company, it should, as soon as possible after the publication of the draft declaration and before the award is passed, provide the Collector with the necessary funds.

(G.O. No. 623, Revenue, dated 28th February 1927, and S.P. No. 37, Land Revenue, dated 8th March 1917.)

13. *Basis of award.*—(i) The award should be drafted carefully and it should contain a summary of the evidence and the reasons on which it is based. The officer who makes an award must therefore record the fullest possible information as to the market value

of the land and all other matters to be considered in determining the compensation. The statement of each witness should be separately recorded and all documents should be proved and properly exhibited except the statistics of sales obtained from the sub-registration offices. These statistics need not be judicially proved by examining witnesses or getting copies of sale-deeds but it is necessary that the Land Acquisition Officer should be acquainted with any sales on which parties are likely to rely in court and should have considered their bearing on his award. Section 11 of the Act allows a Collector to base his award on the reports of subordinate officers. In cases in which the Collector adopts this course, the report should be regularly filed in the course of enquiry. If the report requires elucidation, the officer who sent the report should be examined as a witness. In cases in which the Collector arrives at his conclusion independently of any report, he should see that the award is full and detailed enough to dispense with the necessity for filing any report in court.

(G.O. No. 2014, Revenue, dated 4th September 1916.)

No award should be made unless the Collector has before him a plotted plan of the land to be acquired to which fact he should certify when passing the award. The plan should be prepared in accordance with the instructions given below :—

(ii) (*a*) If the land to be acquired consists of a whole survey field or subdivision, the plan will be merely a tracing from the field measurement book.

(*b*) If the land to be acquired is a part only of a survey field or subdivision then the plan will be prepared in the manner laid down in Board's Standing Order No. 34-A, section (iv), after surveying the new subdivisions or new survey fields. When the acquisition involves the complete obliteration of existing field boundaries, the lands should be surveyed in the manner laid down in Board's Standing Order No 34-A-13 (*b*). This applies particularly to the case of lands acquired for new railways, for which detailed instructions will be found in Appendix VII.

(*c*) In cases where, owing to the existence of intervening buildings, walls or similar obstructions, it is not possible to survey the lands acquired as separate fields or as extensions of an adjacent survey field prior to the passing of the award, temporary subdivisions should be created in the first instance and sanctioned provisionally by the Collector.

[B.P. No. 170, (Settlement), dated 18th July 1917.]

(iii) Care should be taken that in all cases the new fields and subdivisions are demarcated with durable stones of prescribed dimensions before they are surveyed. All lands acquired for the

Page 42, *Part II, B.S.O.* 90, *paragraph* 13.—*Add* the following at the end of clause (*a*) of sub-paragraph (ii) :—

Its technical accuracy should be certified to by the Inspecting Tahsildar or by the Special Officer appointed under paragraph 5 as the case may be, before award is passed. The bends on the survey field or subdivision should be demarcated as explained in clause (iii) below.

[III list, 1-10-29]

Page 42, *B.S.O.* 90, *paragraph* 13 (ii) (*b*).—*For* "B.S.O. No. 34-A-13 (*b*)" *read* "B.S.O. No. 34-A-11 (*b*)."

[III list, 1-10-29]

Page 43, *Board's Standing Order No.* 90, *paragraph* 13, *clause* *(iv) (a)*.—*Add* the following at the end of the last sentence of this clause :—

"and also a statement of changes due to land acquisition in the form in Enclosure I to paragraph 7 of Appendix VII."

(G.O. No. 2440, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29].

Public Works Department will, however, be demarcated in the manner laid down in Appendix VI. The demarcation charges to be borne by Government in connexion with the survey of land acquired for Government will be debited to the head "22. General Administration—Survey and Land Acquisition Charges" except in the following cases:—

(*a*) When the charges are incurred by special officers acting as public works disbursers; and

(*b*) when the land is acquired in connexion with commercial or quasi-commercial undertakings or for departments for which capital and revenue accounts are separately kept, whether a special officer has been employed on the acquisition or not.

In the two excepted cases, the incidental charges also should be debited to the works concerned.

(G.O. No. 1079, Revenue, dated 11th May 1920, and B.P. No. 82, Settlement, dated 14th June 1920.)

(iv) (*a*) When a special officer has been appointed under paragraph 5 the work of demarcation, survey and mapping will be carried out by a special staff under his supervision. He will be held responsible for the accuracy of the work and should therefore check a percentage of the work of his subordinates both in the field and in office. The special revenue inspectors employed under him should issue the notification under section 6 of the Survey and Boundaries Act at the same time as the survey of the lands to be acquired is taken up. Similarly, the notices under section 9 (2) of the Survey and Boundaries Act should be issued at the same time as the notices under section 9 of the Land Acquisition Act. In these notices the acquiring officer (i.e., the Special Deputy Collector) should be entered as the officer to whom appeals should be preferred except in respect of those villages for which the notices have to be issued within the last three months of the special duty; in the case of the excepted villages the tahsildar of the taluk should be entered as the officer to whom appeals should be preferred. In respect of the villages for which appeals have been heard by the special officer, the latter should himself issue the final notification under section 13 of the Survey and Boundaries Act and get it published in the village and in the District Gazette on the expiry of the appeal time and after all the appeals have been disposed of. In the case of the excepted villages the acknowledgments of the notices under section 9 (2) should be forwarded to the tahsildar of the taluk with a draft notification under section 13 of the Survey and Boundaries Act for final publication in the village and in the District Gazette. The special staff should also prepare on double royal paper two copies of the revised field maps for insertion in the village and taluk copies of the field measurement books.

(b) If no special officer is employed the work will be done by the revenue inspector who will be responsible for the accuracy of the measurement, plotting and area computation. He should issue the notification under section 6 of the Survey and Boundaries Act at the same time as the survey of the lands to be acquired is taken up, but notices under section 9 (2) or 10 (2) of the Act as the case may be should not be issued till the subdivision file is forwarded to him after the passing of the award for the incorporation of charges in the village accounts. In the urban areas of surveyed towns the duties of the revenue inspector will be performed by the town surveyor. The plans prepared by these officers should be submitted to the Collector through the inspecting tahsildars whose duty it will be to ensure technical accuracy. Care must be taken that no delay occurs on the part of the inspecting tahsildar.

The inspecting tahsildar will, in the course of his tours, check on the ground cases of such subdivisions along with other revenue subdivisions and should take notice of any bad work which comes under his observation. In specially difficult cases as where the survey records differ materially from the actual state of things on the ground, the inspecting tahsildar should, if satisfied that such a course is necessary or if so ordered by the Collector, either himself perform the duties assigned to the revenue inspecter or scrutinize and check the revenue inspector's work on the ground.

(v) In the case of lands acquired in unsurveyed proprietary estates, a regular survey of the lands to be acquired should be mad and field maps should be prepared with all measurements necessary t show the relative position of the fields concerned. In surveyed proprietary estates, the maps should be based on the cadastral survey as in ryotwari areas. The maps should be checked by the special officer or inspecting tahsildar in the manner laid down above. Copies of these maps should be taken and filed with the village and taluk field measurement books of the proprietary villages in the manner laid down in Board's Standing Order No. 34-C, paragraph 2.

(vi) If in the course of his proceedings the Collector finds it necessary that any alteration should be made in the plan, the award must be deferred until a revised plan has been prepared. The revised plan should be prepared and checked in the same manner as the original plan.

14. *Directions regarding the award.*—(i) The compensation to be awarded for the land under section 11 (ii) of the Act will include—

(i) its value, subject to full assessment, including the value of any buildings, trees and crops standing on it at the time at

Page 44, *Part II, B.S.O.* 90, *paragraph* 13.—*Substitute* th
following *for* the existing sub-paragraph (v) :—

(v) In the case of acquisitions in unsurveyed proprietar
estates the lands to be acquired should first be demarcated in ac
cordance with the rules and a regular survey should be made an
field maps should be prepared in duplicate. Copies of these map
should also be prepared showing the portions of holdings compris
ed in them as subdivisions for purposes of compensation. In suc
cases of acquisition as for roads and channels (other than fo
railway) the survey should be based on a theodolite traverse th
starting and closing points of which should be either maintainabl
theodolite stations or G.T. stations. Where this is not possible
the terminals of the traverse and their pointers (i.e., stations next
adjacent to them) should be fixed in masonry. In acquisitions o
isolated lands, as for a bungalow site, the ends of one of the "G"
lines should be based on a maintainable theodolite traverse, if any
running in the neighbourhood or should be connected by mean
of the lines with two permanent marks such as culverts or publ
buildings in the vicinity. If this is not possible, the two ends of t
"G" line should be fixed in masonry and the expenditure incurr
thereon should be treated as part of the cost demarcation.
much topographical detail in the immediate vicinity as is possil
should be noted on the sketches in order to facilitate identification
of the lands acquired. In the case of acquisitions in any surveyed
lands coming under classes 1 (*a*) to (*e*) of B.S.O. 34-C, paragraph
2, and in cadastrally surveyed proprietary estates the procedure to
be followed in regard to the demarcation, measurement, and map-
ping of the lands to be acquired and of the residual fields, if any,
and the records to be prepared are exactly the same as in ryotwari
areas. When subdivisions of fields are acquired in cadastrally
surveyed estates, the survey of which is not to be maintained at
the cost of Government, sufficient measurements should be taken
for the acquired subdivisions and noted on the sketches to secure
the provision of independent plottable data for the required lands
The records thus prepared should be checked by the special office
or by the Inspecting Tahsildar in the manner laid down above
Copies of the filed maps should as required by B.S.O. 34-C, para
graph 2, be filed in the village and taluk field measurement book
of the proprietary villages and the accounts in the village an
taluk office corrected in the manner laid down in paragraph 1
(ii) below. In surveyed proprietary villages which are not unde
maintenance resurvey sketches of the residual fields, if any (othe
than Government interested lands) should be sent to the proprieto
concerned.

which the notification under section 4 (1) was published, i.e., in the normal condition in which it would *then* have come into the market.

NOTE.—(1) Except in cases of emergency, the owner of standing crops should be allowed to harvest them before possession is taken of the land and their value should not be taken into account—G.O. No. 1540, dated 7th October 1925, and B.P. Mis. No. 2659, dated 3rd December 1925 ; and

(2) in cases in which less than the full assessment is charged on the land and the claimant is entitled to compensation in cash for the loss of this privilege (i.e., if he is the holder of an inam other than unenfranchised service inam), twenty times the amount of the assignment of Government revenue to which he is entitled.

N.B.—(1) Fifteen per cent of each of these amounts should be awarded in addition thereto in accordance with section 23 (2) of the Act.

(2) In the case of zamindari or other proprietary land, the land should be valued in the first instance including all interests in it and the amount so ascertained should then be apportioned among the parties interested according to the value of their several interests. The difference between the market value of the land and the value of the tenant's interest represents the landlord's interest.

(G.O. Mis. No. 256, Revenue, dated 9th February 1923, and B.P. Mis. No. 436, dated 22nd February 1923.)

(3) The assignment of Government revenue to which an inamdar is entitled will appear from his title-deed where one has been issued : if no title-deed has been issued, the assignment should be valued with due regard to the reversionary rights of Government. When the assessment specified in the inam register has been revised by a subsequent revenue settlement, the assignment of Government revenue to which the inamdar is entitled should be determined with reference to the revised assessment, that is, the current assessment appropriate to the description of the land at the time of the inam settlement which is entered in column 8 of the B register.

(ii) When less than the full assessment is charged on the land in consideration of services to be rendered by its holder either to the State or to the community, the Collector should record a finding in the award as to the amount of net assessment guaranteed to the inamdar at the time of the inam settlement on the extent acquired. If it is proposed to make any of the arrangements contemplated in section 31 (3) of the Land Acquisition Act, the Collector should submit proposals to this end through the District Collector.

(G.O. Mis. No. 715, Revenue, dated 29th March 1921, and B.P. No. 24, dated 29th April 1921.)

(iii) Clause (iii) of section 11, which requires the Collector to record a finding as regards the apportionment, among the persons interested, of the total compensation awarded by him must be read with sections 30 and 31 (2) of the Act in cases where there is a dispute as to the title to receive compensation or as to the apportionment of it. In such cases the Collector should either make a summary enquiry and record a finding or should refer the dispute

to the civil court under the provisions of section 30. If his finding is not accepted by all the parties interested, or if he makes a reference under section 30, he must deposit the full amount of compensation in dispute in court under section 31 (2) of the Act.

(B.P. No. 350, dated 3rd December 1906, paragraph 1 (2) of the Government of India Resolution in B.P. No. 308, dated 16th November 1898, B.P. No. 65, dated 24th March 1902, B.P. No. 22, dated 8th February 1900, B.P. No. 295, dated 15th December 1909, and G.O. No. 3170, dated 19th November 1909.)

(iv) If under section 31 (3) or (4) of the Act arrangements have been made to grant compensation otherwise than in cash, the nature of such compensation should be clearly specified in the column of remarks in the award statement prescribed at page 160 of the Madras Financial and Account Code, Volume II.

(B.P. No. 206, dated 23rd July 1907.)

In cases where the circumstances are such as to necessitate the grant of land in exchange, proposals to that effect should not be entered in the award but should be submitted to the Collector of the district separately.

(B.P. No. 2804, Press, dated 10th September 1918.)

(v) Act I of 1894 (India) does not contemplate the award of compensation in instalments for the interests in lands acquired. Under clauses (ii) and (iii) of section 11, the Collector should determine once for all the amount of compensation due for all the interests in the land and apportion it among those entitled to receive it.

(G.O. No. 2664, dated 13th August 1910, and B.P. No. 230, dated 25th August 1910.)

15. *Discretion allowed to valuing officer.*—Subject to the foregoing remarks, the value of land as well as of the various interests therein should be determined by the officer appointed for its acquisition according to his good sense and discretion and with due regard to the provisions of sections 23 and 24 of the Act. In special cases, as for instance, when land under tea or any specially valuable product has to be taken up, the valuation should be made in accordance with special instructions to be issued by the District Collector. These observations apply also to the valuation of land for the purpose of paragraph 8 supra.

(B.P. No. 43, dated 1st February 1896, G.O. Mis. No. 3659, dated 16th October 1899, B.P. No. 65, dated 2nd March 1902, and G.O. No. 432, dated 4th July 1899.)

16. *Safeguards to be adopted against excessive awards.*—It is to be noted that, while the civil court is competent to increase the amount of the Collector's award, it cannot award less than that amount. Also whereas section 18 of the Act gives the owner of land the right of appealing against the award of a Collector, Government are denied such a right in view of the executive control

which they can bring to bear on the acts of a Collector. It is therefore most important that such control should be efficiently exercised. When, in the course of the acquisition of land for a large project, it is found that awards are likely to exceed the aggregate estimate for a district by 20 per cent or more, the announcement of further awards should be suspended and a special report should be submitted to the Board through the District Collector. Moreover all awards should be reported to the District Collector with particulars as to the area, soil, rate per acre and total amount in each case and with adequate explanation whenever the award exceeds the preliminary valuation. If the officer making the award is not the Collector of the district, he should, before making the award, refer to the Collector any case in which he proposes to award more than 10 per cent in excess of the original estimate, or more than Rs. 10,000 or in which he considers that the evidence is conflicting or of such a nature that a civil court may possibly award a sum exceeding the estimate by 10 per cent on appeal. The District Collector may require all cases to be referred to him before the award is pronounced; and the Collector in making his final award should be guided by the instructions received from the District Collector. Such instructions should be confined to any information which the District Collector may have as to the proper valuation of the land or which the Collector should take into account in framing his award. But it is not competent for the District Collector to direct the Collector to award any particular amount as compensation. When the Collector after considering all the information placed at his disposal has finally decided the amount of the award to be made, the only alternatives open to Government are either to withdraw from acquisition proceedings or to allow them to proceed on the basis of the Collector's award. The District Collector should call for explanations from the officers responsible for the original valuation whenever their estimate is found to be materially lower than the value finally awarded. If the land is to be paid for by another department of Government, the District Collector should enquire of that department whether the acquisition should in the circumstances be completed.

(B.P No. 43, dated 1st February 1906, B.P. No. 288, dated 15th October 1906, and G.O. No. 649, dated 9th March 1909.)

NOTE.—(1) The Collector[a] should give sufficient notice of the date of the enquiry to be held under section 11 of Act I of 1894 to the departmental officer or the officer of the local body or company concerned, so that he may, if so advised, appear in person or by agent, watch the proceedings, and produce evidence as to the value of the land, and should take into consideration any representation which such officer may make, whether it is made orally or by letter[a]. Further[b] in order to protect the interests of Government in

[a] B.P. No. 288, dated 15th October 1906.

[b] G.O. No. 1959, Revenue, dated 14th August 1920.

cases where land is granted free of cost to a railway, it is incumbent on the Collector to refer through the Collector of the district to the Government Inspector of Railways or to the Agent of the Railway Administration or his representative all cases in which the awards are likely to exceed the original estimates by more than 10 per cent or by more than Rs. 10,000. If within one month of the date of receipt of the reference the Government Inspector of Railways or the Agent of the Railway does not intimate to the Collector that he desires to be present at the inquiry it should be assumed that there is no objection to the award being made[b]

b (B.P. No. 5, dated 8th February 1921.)

(2) When the Collector receives notice from a civil court under section 20 (*c*) of the Land Acquisition Act, he should forthwith communicate a copy of such notice to the local authority or company, if any, at whose cost land is being acquired. Information regarding the amount of compensation awarded and the amount claimed should be forwarded to the local authority or company along with the notice or immediately thereafter in order to enable it, if it so elects under section 50 (2) of the Act, to appear and adduce any evidence for the purpose of determining the amount of compensation. He should also inform the local authority or company that, whether it takes advantage of the right which it possesses under section 50 (2) of the Act or not, the Law officers of the Government will be instructed to appear on behalf of the Government at the cost of the local authority or company.

(G.O. Mis. No. 618, Revenue, dated 10th April 1926, B.P. No. 119, L.R. dated 12th April 1915, G.O. Mis. No. 319, Revenue, dated 28th February 1924, and G.O. No. 863, Revenue, dated 7th May 1927.)

(3) Even when a company does not directly pay for land, but is merely debited with the amount of compensation against its Capital account, it should receive the notice referred to in notes (1) and (2) supra.

(B.P. No. 59, dated 17th April 1903.)

(4) When a case has been referred to the civil court, the Collector should arrange for the defence of his award as if it were a suit against Government. In all cases in which the civil court does not uphold the award of the land acquisition officer, the Collector should obtain the orders of the Board under Board's Standing Order No. 95 (1) on the question of filing an appeal or a memorandum of cross-objections against the decree of the civil court. If the acquisition is made for a local body or a company, the Collector should invariably first ascertain from such local body or company whether it desires that an appeal should be filed and agrees to bear the charges of litigation and submit a copy of its opinion to the Board together with the report under Board's Standing Order No. 95 (1). If the local body or company does not wish to appeal, no appeal should be filed except with the special sanction of Government. The Secretary of State is a necessary party in all proceedings in the civil courts subsequent to the passing of an award and the Government must be represented by their Law officers in all such proceedings in which the award is questioned, the charges incidental to their appearance being defrayed by the local authority or company under section 50 (1) of the Act. If a local authority or company elects to exercise the rights given to it by section 50 (2) of the Act to appear and adduce evidence for the purpose of determining the amount of compensation, it is at liberty to do so through the agency of its legal representatives, but as neither the local authority nor the company is actually a party in the proceedings, the appearance of its legal

Page 48, *B.S.O.* 90, *paragraph* 16, (i) *Note* (2).—*For* the first sentence *substitute* the following :—

When the Collector receives notice from a Civil Court under section 20 (*c*) of the Land Acquisition Act, he should in case the land is being acquired at the cost of any fund controlled or managed by a local authority or of any Company forthwith communicate a copy of such notice to such local authority or company.

Add the following at the end of the note :—

These instructions do not apply to cases of acquisition of land for the Madras and Southern Mahratta and the South Indian Railway Companies and any other Railway Administration for which, according to the terms of the contract, land has to be provided by the Government.

Delete note (3) and *renumber* the existing note (4) as (3).

(ii) *Note* (4), *third sentence.*—*Delete* the words "for a local body or a company" and *substitute* in its place "at the cost of any fund controlled or managed by a local body or of any company."

[III list, 1-10-29]

Pages 48-49, *B.S.O.* 90, *paragraph* 16, *Note* 4, *sixth sentence.*—*Insert* the following after the sixth sentence :—

The above instructions regarding the procedure to be followed in respect of acquisition for a local authority or a company do not apply to the Madras and Southern Mahratta and the South Indian Railway Companies and any other Railway Administration for which, according to the terms of the contract, land has to be provided by the Government.

[III list, 1-10-29]

representatives for the purpose specified in section 50 (2) cannot replace the appearance of the Law officers of the Government to adduce evidence and argue the case on their behalf. In Madras City, it will be the duty of the Government Solicitor to appear in the court of reference and of the Government Pleader to appear on appeal to the High Court. The Government Solicitor shall instruct the Government Pleader in the High Court only in cases in which he has appeared before the court of reference and in such cases the fees payable should be shared in the proportion of two-thirds to the Government Pleader and one-third to the Government Solicitor. In the mufassal, the Government Pleader of the district will appear before the court of reference. When the officer who passed the award or his successor is called on for instructions to be given to the Government Pleader in the mufassal or the Government Solicitor in the City of Madras, it is his duty to see that the evidence on record is sufficient for a successful defence of the award and to remedy any defects by recording fresh evidence. When an appeal is preferred to the High Court the memorandum of objections should be drafted by the District Government Pleader or the Government Solicitor as the case may be and scrutinized by the Collector. The Law officers are entitled to the regulation fee in accordance with the scale laid down in the Civil Rules of Practice on the value of the claim. In cases falling under section 25 (2) and (3) of the Land Acquisition Act, the value of the claim is that taken by the court for the purpose of taxation of costs or allowance of pleader's fee. In other cases, it should be taken as the difference between the amount claimed before the land acquisition officer under section 9 or in any subsequent statement at the stage of demand for a reference under section 18 of the Land Acquisition Act whichever is less and the land acquisition officer's award. In cases of extravagant claims however the Collectors have discretion to pay reduced fees under Board's Standing Order No. 97 (2), sub-paragraph (6). Failure on the part of Law officers to represent the proper method of computing the costs due to Government in acquisition cases as laid down in B.P. Mis. No. 3149, dated 27th October 1927, is also a sufficient ground for sanctioning a lower fee under Board's Standing Order No. 97 (2), sub-paragraph (6). Under section 50 (1) of the Act, such fees should be paid to them through the Collector by the local authority or company concerned.

(G.O. Mis No. 1962, dated 6th October 1927, B.P. No. 3149, dated 27th October 1927, G.O. R. No. 1145, dated 21st December 1927, and B.P. Mis. No. 58, dated 7th January 1928.)

17 *Revision of award duly announced not permitted.*—(i) An award made by a Collector under section 11 and duly announced under section 12 of the Act should not be revised or amended either by himself or by the District Collector even though the persons interested may consent to the revision or amendment.

(B.P. No. 44, dated 1st February 1896.)

(ii) *Supplemental awards prohibited.*—The issue of supplemental awards is prohibited. Whenever it is found that any equitable claim has been overlooked in an award or that any mistake has been committed, the Collector should report the matter to the Board submitting the explanation of the officers responsible for the omission or other irregularity.

(G.O. No. 2664, dated 13th August 1910, and B.P. No. 230, dated 25th August 1910.)

18. (i) *Taking possession.*—When an award has been made, possession of the land (if not already taken under section 17 of the Act) can be taken at once and need not be deferred till the compensation is paid. The acquisition is completed by taking possession and the land then vests absolutely in Government. Up to the moment of taking possession under the Act, Government are at liberty to withdraw from the acquisition, but not afterwards.

(ii) *Land acquired for private educational institutions.*—Whenever land is acquired under the Act for the purposes of schools under private management, the Collector should, after the award has been passed, take possession of the land which will then vest absolutely in the Government. He should also submit to Government, through the Board of Revenue, proposals for the alienation of the land before handing over possession of the land to the private managing body.

19. *Records of transactions and correction of Karnams' field measurement books and revenue survey maps.*—(i) In order to ensure the maintenance of a permanent record of the land acquired it is essential that the changes which have been effected should be entered in the land registers and maps maintained by the Revenue department as well as in the registers maintained by the Registration department. The following procedure should therefore be followed.

(ii) After the award has been passed, the Land Acquisition officer, if not himself the Divisional Officer, should see that the new field maps are inserted in the village copy of the Field Measurement books and invariably forward the papers to the Divisional Officer together with a statement in the form printed in Appendix XII (13)—vide sub-paragraph (v) below. The Divisional Officer will in all cases forward the statement to the Registration department and will then forward to the Tahsildar, with a view to the necessary changes being made in the taluk and village accounts, the plans mentioned in paragraph 13 (ii) of Standing Order No. 90, the duplicate copies of revised field maps, the subdivision statements prescribed in Appendix V to Standing Order No. 34-A and adjustment statements with the number and date of the award noted on all of them. On receipt of these papers the Tahsildar will enter the changes in the Taluk account No. 7 and also in the Taluk subdivision register No. 8 A if new fields or subdivisions have been formed. He will then forward the subdivision and adjustment statements to the Revenue Inspector for incorporation of the changes in the village accounts. The latter will carry out the corrections in village account No. 3 and village A register, revise the stone registers and demarcation sketches and return the file to

Page 50, *Board's Standing Order No.* 90, *paragraph* 19, *cl*
(ii) as amended by Correction Slip No. III, dated 1*st October* 192
For the words "the subdivision and adjustment statements"
the fourth sentence of this clause *substitute* the words "the s
division statements and the statements of changes due to l
acquisition."

(G.O. No. 2440, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-

Page 50, *Board's Standing Order No.* 90, *paragraph* 19, *cl*
(ii) as amended by Correction Slip No. III, dated 1*st October* 192
For the words "adjustment statements" in the second sent
of this clause *substitute* the words "statements of changes d
land acquisition."

(G.O. No. 2440, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-2

Page 50, *B.S.O. No.* 90, *paragraph* 19 (*ii*).—*For* "Appendi
to B.S.O. No. 34-A" *read* "Appendix VII to B.S.O. No. 34-A

[III list, 1-10-

Page 51, *Board's Standing Order No.* 90, *paragraph* 19, *clause (ii) as amended by Correction Slip No. III, dated* 1*st October* 1929.—*For* the words "adjustment statements" in the tenth sentence of this clause *substitute* the words "statements of changes due to land acquisition."

(G.O. No. 2440, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

the Taluk office with the necessary certificate. It will then be sent, together with the duplicate copies of the revised field maps, to the Inspecting Tahsildar who will arrange to have the maintenance set of village maps corrected. On receipt back, the duplicate field maps should be inserted by the revenue draftsman in the proper place in the taluk copies of the field measurement books. The Tahsildar will then arrange to have the taluk copy of the A register corrected and a certificate that the register has been corrected inserted in the file. The papers will eventually be returned to the Divisional Officer. When no special staff is employed, the plans mentioned in paragraph 13 (ii) above, the subdivision statements prescribed in Appendix V to Board's Standing Order 34-A and the adjustment statements, if any, with the number and date of the award noted on all of them will be forwarded to the Tahsildar. On receipt of these papers the Tahsildar will make the necessary entries in the concerned taluk registers and then carry out the procedure laid down in Board's Standing Order No. 34-A, in regard to the incorporation of the changes in the maps and accounts. The Revenue Inspector need not checkmeasure the subdivision, having already measured it, nor need he issue the section 6 notification under the Survey and Boundaries Act as it has already been issued. He will, however, issue notices under section 9 (2) or 10 (2), as the case may be, of the Act. In the case of acquisitions made in surveyed municipalities, the same procedure will be followed, the only difference being that the functions assigned to the Revenue Inspector will be performed by the Town Surveyor. The latter will not only carry out corrections in the records with the karnam where this is necessary but also correct the records in the Municipal office. In the Taluk office the changes will be embodied in the Taluk maintenance set of town survey records. A disposal number should not be given to the acquisition papers until the above procedure has been carried out in its entirety.

(G.O. No. 861, Revenue, dated 7th May 1927.)

(iii) In cases where temporary subdivisions have been created in the first instance—vide paragraph 13 (ii) (*c*) supra—the Divisional Officer will, before communicating the statement to the Registration department, have the temporary subdivisions demarcated and surveyed as separate fields or as extensions of an adjacent survey field by the Firka Revenue Inspector or the Town Surveyor, as the case may be, under the supervision of the Inspecting Tahsildar, as soon as this becomes possible by the demolition of the buildings acquired. As soon as the survey is completed, the Inspecting Tahsildar will attest and forward the plans of the new fields to the Divisional Officer, who will then carry out the procedure indicated in clause (ii) of this paragraph.

(iv) In order to ensure the maintenance of a permanent record of land acquired, information in the form printed as Appendix XII (13) should invariably be furnished to the Registration department in respect of land taken possession of under sections 16 and 17 of the Act. When fields have been resurveyed, both the new and the old survey numbers and subdivision numbers should be given in column 3 (*c*) of the statement. Every modification in a 'Collector's' award made by a Court under Parts III and IV of Act I of 1894 and every alteration in the form of compensation made by a 'Collector' under section 31, clauses 3 and 4 of the Act, subsequent to the award should be duly intimated to the registering officer concerned. Awards need not be separately registered under the Indian Registration Act.

G.O. No. 2124, Revenue, dated 18th September 1916, G.O. No. 3809, Revenue, dated 2nd December 1918, B.P. Mis. No. 1692, dated 16th December 1918, and B.P. No. 170 Settlement, dated 18th July 1917.)

Section (iv)—Payment of compensation in cash.

20. *Instructions regarding payment.*—The instructions framed for regulating the payment of compensation for land acquired for public purposes as well as the audit of such payments are given in Appendix 19 to the Madras Financial and Account Code, Volume II. The following paragraphs contain the principal instructions on the subject.

21. *Rules to be observed in making payment in cash.*—(i) The payment of compensation should be made as soon after the declaration of the award as possible, as under section 34 of the Act interest at 6 per cent per annum is payable on the amount of compensation for the interval between the date of occupation and the date of payment. Accordingly the Collector or other officer duly empowered should, immediately after making an award under section 11, tender payment of compensation to such of the persons entitled thereto as are then present either personally or by their representatives.

(ii) To those who are not so present, a notice should at once be sent through the Tahsildar or the Deputy Tahsildar of the taluk or division in which they reside intimating the fact that an award has been made and stating that, unless the amount awarded is claimed by the party either personally or through a duly authorized agent within a time to be specified, the money will be placed in deposit and will bear no interest. The notice should be served in the manner prescribed in section 45 of the Act.

(iii) If the Collector's tender is accepted by the parties present, or if the parties afterwards appear before him in person or by duly authorized agents to take payment, whether in pursuance of the notice served or otherwise, the Collector should take a receipt

Page 53, *Board's Standing Order* 90, *paragraph* 21 (*V*).—*Substitute* the following *for* the existing first sub-paragraph and the second sub-paragraph down to and including clause (1):—

"There is no objection to the payment of the compensation by money order at the expense of the parties concerned if they apply for such form of payment and agree to bear the money order commission. In the case of petty payments, not exceeding Rs. 50 in each separate case, if the payees do not appear on the day fixed for payment or apply for a reference to the civil courts under section 18, arrangements should be made to adjust the claims against Government dues, if any, or notices should be issued to them informing them that if they do not attend by a certain date, the compensation amounts awarded to them will be remitted to them by money order, the amount of the money order commission being deducted. The following rules must be observed in making payments by money order:—

(1) Payment by money order should be confined to inland money orders only."

[**X** list, 30-10-30]

in the form C or CC printed on pages 163 to 165 of the Madras Financial and Account Code, Volume II, and make the payment at once, if possible in cash, if not by an order on the treasury.

(iv) Where the offer of payment is accepted, but the parties are unable to appear before the Collector to receive the payment, the counterfoil receipt in form C should be filled up from the award statements, the space for the signature of the payee being left blank and the words 'Paid in my presence to' being altered into 'Pay to.' The original should then be forwarded to the Sub-Treasury Officer within whose jurisdiction the parties entitled to payment reside for disbursement of the amount to them. The Sub-Treasury Officer will furnish the officer who issued the pay orders with a periodical return of the payments made thereon.

(v)[b] In the case of petty payments, if the parties do not appear on the day fixed for payment or apply for a reference to the Civil Courts under section 18, arrangements should be made to adjust the claims against Government dues, if any, or notices should be issued to them informing them that if they do not attend by a certain date the compensation amounts awarded to them will be remitted to them by money order, the amount of the money order fee being deducted. Such remittance should be confined to inland money orders only.

The following rules must be observed in making such payments by money order :—

(1) No sum exceeding Rs. 50 in each separate case may be paid by money order.

(2) No compensation awarded jointly to two or more persons on account of 'land' which is owned jointly by them may be paid by money order.

(3) In each money order so issued, the purpose of the remittance should be briefly stated in the acknowledgment portion thereof in continuation of the printed entry "Received the sum specified above on," sufficient space being left below the manuscript entry thus made for the signature or thumb impression of the payee. On receipt of the money order acknowledgment duly signed by the payee, it should be attached to the usual receipt in form C in which the full amount of the compensation and the deduction made therefrom on account of the money order fee should be clearly shown ; the receipt will then be disposed of in the usual way. The Account department will accept such voucher with the money order acknowledgment as a valid receipt for the full amount entered therein.

(4) For the words "Paid in my presence $\frac{\text{by cash}}{\text{by cheque}}$" in form C, the words "Paid by money order" should be substituted.

The Accountant-General will accept, in the case of compensation paid by money order, a receipt for the amount entered in the award statement less the amount of the money order fee as a valid receipt for the full amount entered in the award statement.[b]

(vi)[c] If the parties do not take payment within the time specified and do not apply for a reference to the Court under section 18 of the Act, the compensation money should be placed in revenue deposit and dealt with in the manner prescribed in rule 6 of the Appendix 19 to the Madras Financial and Account Code Rules.

(vii) The date of payment or the date of transfer to revenue deposits should be noted in the A statement prescribed at page 160 of the Madras Financial and Account Code, Volume II.

(viii)[d] In all cases of dispute as to title to compensation or apportionment of it, or other cases falling under section 31 (2) of the Act, the Collector must deposit in Court the whole of the compensation awarded, though some of the parties may have accepted his award.[d]

a (B.P. No. 370, dated 1st September 1894.)
b (G.O. No. 977, Revenue, dated 1st April 1914.)
b (G.O. No. 3423, Revenue, dated 25th November 1914.)
(B.P. No. 366, dated 19th September 1896.)
c (B.P. No. 17, dated 14th January 1897.)
d (G.O. No. 3170, Revenue, dated 19th November 1909.)
d (B.P. No. 295, dated 15th December 1909.)
(B.P. No. 119, Land Revenue, dated 12th April 1915.)

22. *Payment into Court.*—Rule[a] 8 of the rules printed in Appendix 19 to the Madras Financial and Account Code provides that all payments into 'Court' on deposit should be made by means of cheques in favour of the presiding officer of the Court. The limit of Rs. 10 laid down in article 49 (iv), Madras Financial and Account Code, Volume I, does not apply to these cheques. Officers specially employed for land acquisition are regarded as Public Works disbursers and are supplied with cheque books by the Accountant-General through the Treasury Officer. Civil officers who are not so supplied will fill in form C with their own name, official designation and signature and endorse it across as follows :—

Pay to the Judge of the Court at or order the sum of Rupees annas pies only.

Rs.

To

The Treasury Officer at

Dated 191 . Official designation.

In words. in figures.

The voucher will then be forwarded with form D, in triplicate, to the Court concerned [a].

(B.P. No. 91, dated 7th March 1926.)
a (B.P. No. 164, dated 11th May 1896.)

Section (v)—Settlement of compensation otherwise than in cash.

23. *General rules* (i).—When land in an impartible estate is acquired under the provisions of the Land Acquisition Act, the compensation awarded to the Proprietor of the estate should be paid to him in cash in cases where the land is acquired for a public religious or a public charitable purpose; but in cases in which the land is acquired for any other purpose, the compensation awarded to the Proprietor should be deposited in Court under section 31 (2) of the Land Acquisition Act.

(G.O. Mis. No. 1833, dated 20th September 1927.)

(ii) Under the third and fourth clauses of section 31 of the Act, it is open to the Collector to arrange with the persons entitled to compensation for a commutation of the money payment awarded under section 11 into *a grant of other land in exchange* [clauses (iii) and (v) below and paragraph 25 generally] or *of a beriz deduction* (paragraph 25, clause (ii) (*b*) or *an assignment of assessment* (paragraph 26) or, if such person be zamindar or inamdar, *into a reduction of peshkash or quit-rent* (note to paragraph 30) as the case may be. Compensation for unenfranchised service inams of all kinds should, as a rule, be settled in one of these ways, as the grant of a single payment in cash might cause the extinction of the service.

(iii) Under clause 3 of the section referred to, if the party has a limited interest in the land acquired and is incompetent or only partially competent to contract in respect of the land, if, for example, he is the trustee of a temple, the sanction of the Local Government must be obtained for making any of the above arrangements in lieu of payment in cash. Applications for such sanction must be submitted in the form given in Appendix XII (14).

(iv) [a] In cases falling under clause 4 of section 31, i.e., where the person interested in the land is competent to contract in respect thereof, the sanction of Government is unnecessary, when the Collector with the previous sanction of the District Collector decides to grant in exchange land on ryotwari tenure; and such

cases may be dealt with by the Collector on his own authority [a]. [b] The case of a village artizan as well as that of a person holding a village officer's inam has been held to fall under section 31 (4) on the ground that though the inamdar is not competent to contract with private individuals in respect of the land, still he may enter into a valid contract in respect of the same with Government [b].

a (B.P. No. 530, dated 30th November 1894, G.O. Mis. No. 5715, dated 6th November 1897, and B.P. No. 402, dated 16th November 1897.)

b B.P. No. 10, dated 15th January 1895.

(G.O. No. 8, dated 7th January 1895, B.P. No. 176, dated 1st June 1895, and B.P. No. 65, dated 24th March 1902.)

(v) Land granted in exchange under clauses (3) and (4) of section 31 of Act I of 1894 should ordinarily be selected from the extent at the disposal of Government, and preferential claims advanced in respect of such land under the darkhast rules may be set aside, provided that by so doing the bona fide and reasonable requirements of resident ryots will not be prejudiced.

(vi) It is entirely optional on the part of the Collector to grant land in exchange for [c] enfranchised inams, [d] unenfranchised personal inams, [e] zamindari land or [f] ryotwari land taken up under the Act. In all such cases the fresh grant of land should be made on ryotwari tenure, the grant of the tenure, of beriz deductions, of fixed remissions or of any other permanent alienation of Government revenue by way of compensation being prohibted except in accordance with paragraph 25.

c (B.P. No. 176, dated 1st June 1895.)

d (B.P. Mis. No. 3482, dated 30th June 1896.)

e (B.P. No. 325, dated 6th September 1895.)

f (B.P. No. 127, dated 10th June 1902, and B.P. No. 65, dated 24th March 1902.)

NOTE.—Private land should not be acquired in order to be granted in exchange for land of any of the above descriptions. In the case of land held on ryotwari tenure by religious or charitable institutions and acquired under the Act for public purposes, if there be no land at the disposal of Government which can conveniently be assigned in exchange, the compensation payable in cash should be deposited in court under section 31 (2) of the Act.

(G.O. No. 415, dated 12th May 1902, and B.P. No. 127, dated 10th June 1902.)

(vii) In arranging for exchanges of land, the Collector should ordinarily deal only with the party in whose favour the money compensation has been awarded, and not with those to whom such party may, for a consideration, have transferred his right to receive compensation in kind.

(viii) Proposals for the settlement of compensation otherwise than in cash may be made by officers excercising the powers of Collectors under the Act, but the terms of such settlement will be subject to approval and revision by the Collector of the district.

The Government however are the final authority to sanction the proposals except when the settlement is to be made with a person competent to contract in respect of the land acquired and the Collector decides to grant in exchange land on ryotwari tenure.

(ix) To minimise delay in the completion of the arrangement for the grant of fresh land in exchange, the revenue officer will, while making inquiries as to extent and value of the land to be acquired for the preparation of the notifications under section 4 of the Act, also ascertain in the case of unenfranchised service inams whether there is any land in the same or in an adjoining village which could be given into the inamdar in exchange. He will embody the information in his report about the inam land to be acquired or in a separate report immediately thereafter.

24. *Payment of interest where compensation is awarded otherwise than in cash.*—In cases in which no money compensation is paid but it is proposed to compensate the owner by the grant of other lands or in some other way as is contemplated in section 31 (3) of the Act, the owner will be entitled to interest only if the arrangement made by the Collector under this section provides for its payment; but a stipulation should usually be made in any agreement under section 31 (3) of the Act that interest shall not be claimed under section 34 unless there has been undue delay, for which the Government are to blame, in the grant of the compensation agreed upon under section 31 (3).

25. *Special rules for compensation for unenfranchised service inam.*—(i) The essential part of religious and charitable inams is the assignment of revenue due to Government; and this assignment or an equivalent thereof should be secured to the inamdar in the settlement of compensation. Except therefore in the special cases described in clause (ii) of this paragraph, it is only necessary to secure the continuance to the inamdar, without diminution or enhancement, of the assignment of Government revenue guaranteed to him at the inam settlement or (if his inam is unsettled) at the date of the creation of the inam and this can most conveniently be done by the grant of a beriz deduction or fixed remission equal in amount to the Government revenue to which the inamdar is entitled, compensation for the kudivaram interest being paid in cash to the person entitled to it, whether he be the inamdar or not if he is competent to contract in respect of the land. Otherwise the amount of compensation for the kudivaram interest should be paid into court. In the latter case proposals for temporary beriz deduction should be submitted as laid down in note 2 to paragraph 28 below.

(ii) (*a*) but in the case of unenfranchised religious and charitable inam granted within 60 years of their acquisition and in the case of all unenfranchised village service and village artizan inams,

if there are reasonable grounds for holding that the original grant included both the land and the assessment (as for example, where the land was unoccupied waste at the time of grant, it is necessary to secure to the inamdar not only the continuance of the assignment of revenue to which he is entitled but also the continuance in a permanent form, for the benefit of the service of the income from the land, and the most convenient method of doing this is to select a piece of land at the disposal of Government of the value of the sum awarded as compensation in accordance with paragraph 14 supra and to grant the selected land on inam tenure in accordance with the following instructions :—

(1) If the assessment of the selected land and that foregone on the land taken up under the Act is the same, the fresh grant should be on inam tenure, the whole of the assessment being foregone.

(2) If the selected land bears a less assessment than that foregone on the land taken up, the difference of assessment should be made good as a beriz deduction in favour of the inamdar and the selected land should also be given him as an inam free of all assessment.

(3) If the selected land bears an assessment higher than that foregone on the land taken up, the difference should be imposed as a jodi on the land granted in exchange which will otherwise be free of assessment.

(*b*) If there is no land at the disposal of Government available for the purpose of being granted in exchange, the annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessment foregone on the land taken up together, if need be, with a single payment in cash to the inamdar if he is competent to contract or otherwise into court on account of the sum awarded under paragraph 14 supra, will often meet the requirements of the case ; but if the value of the land taken up is considerable, private land may be acquired under the Act and granted in exchange on inam tenure in one of the three ways indicated.

(B.P. No. 124, dated 18th June 1918.)

26. *Consent of occupant necessary to assignment of assessment.*— Compensation in the shape of an assignment of the assessment due to Government on occupied land should not ordinarily be given without the previous consent of the occupant of the land, or in any case other than that of unenfranchised service inam land taken up under the Act.

(B.P. No. 137, dated 28th January 1887 and B.P. No. 65, dated 24th March 1902.)

27. *Record of transactions under this section.*— (i) When a portion of land forming an inam other than an unenfranchised service inam is taken up under the Act, the fact should be recorded

by endorsement on the title-deed; when the whole of such land is taken up, the title-deed should either be cancelled or, if it is not forthcoming, withdrawn by notification in the District Gazette.

(ii) When unenfranchised service inam land (including religious and charitable inams) is acquired under the Act, the inamdar should be called upon to produce his title-deed and if produced, it should be endorsed by the Collector with a certificate in the following form, with necessary modifications, "Certified that of the lands included in this title-deed.........acres have been acquired by Government under Act I of 1894 and that compensation has been given to the inamdar by the grant of $\frac{\text{acres of land ....held}}{\text{an assignment ....village}}$ $\frac{\text{free of assessment}}{\text{on a quit-rent of}}$——— subject to the condition specified in this deed.

If the title-deed is not produced, a separate certificate should be issued to the inamdar in a similar form specifying explicitly the conditions of the tenure of the land granted, or of the enjoyment of the revenue assigned.

(iii) Whenever land is granted in exchange, the Collector should also forward a report in the form given in Appendix VII to the Registration department for incorporation in the records of that department.

(iv) Village officers should be instructed to enter all orders relating to fresh grants of land in village account No. 3 and to note the necessary changes in permanent registers A and B. When lands in a different village from that in which lands have been taken up are assigned in exchange, the fact should also be noted in the accounts of the former village, the particulars of the fields granted being shown if necessary in register B. Officers conducting jamabandi should see that the above instructions are duly carried out.

(B.P. No. 519, dated 28th November 1894, and B.P. No. 65, dated 24th March 1902.)

28. *Procedure when undue delay occurs in settling compensation otherwise than in cash.*—If in any case, in which it is proposed to arrange for the grant of compensation otherwise than in cash, such arrangement has not been completed within a reasonable period, which should not ordinarily exceed six months from the date of the award, the Collector should, if the case falls under clause (v) of paragraph 23 above, pay the compensation in cash, or if the case falls under paragraph 25 above, deposit in court under section 31 (2) of the Act the amount awarded under paragraph 14 (i) (1) above and seek the orders of the Board as regards the assignment of assessment unless he is himself competent to sanction the assignment under paragraph 23 (iii) supra. Once the amount is deposited in court the Collector has no further statutory responsibility other than

the liabilities imposed by section 32 (2) of the Act. But executive instructions have been issued by the Government of India and the High Court to the effect that purchases of fresh land should be effected under the court's orders through the Collector of the district. In every case in which the court directs the purchase of land with the money deposited the Collector should on receipt of the court's reference cause departmental enquiries to be made in regard to the title and value of the land which it is proposed to purchase and take the necessary steps to complete the transaction. As required by section 32 (1) *(a)* of the Act the land so purchased should be granted on inam tenure agreeably to the instructions contained in paragraph 25 supra.

(G.O. No. 3170, dated 19th November 1909, B.P. No. 295, dated 15th December 1909, and B.P. No. 362, dated 5th December 1915.)

NOTE.—(1) The provisions of part II of the Act should not be applied to effect a purchase of land ordered by the court under section 32 of the Act.

(B.P. No. 97, dated 5th April 1907.)

(2) As soon as the amount awarded for the occupancy right is deposited in court, the Collector should at once submit to the Board proposals for the grant of compensation for the melwaram right by way of beriz deduction as a temporary measure, i.e., until other land is purchased under the orders of the court unless he is himself competent to sanction the arrangement under paragraph 23 (iii) supra. In doing so, he should also take into account the proportionate share of the annual assessment to which the inamdar may be entitled for the period during which he had been deprived of the assignment of revenue, i.e., the unexpired portion of the fasli in which the inam land was taken possession of.

(B.P. No. 362, dated 5th December 1915.)

29. *Cases not provided for.*—Cases which do not fall within the scope of the foregoing rules or in which the Collector may consider it desirable to invest the amount awarded as compensation in the form of Government promissory notes should be reported for the orders of the Board.

(B.P. No. 65, dated 24th March 1902.)

Section (vi)—Miscellaneous.

30. *Proportionate reduction of peshkash or quit-rent how worked out.*—Whenever zamindari or inam land is taken up for public purposes, the zamindar or inamdar will, in addition to compensation for his interest in the land taken up, be entitled to a proportionate reduction of his total peshkash or quit-rent, the amount to be deducted bearing the same proportion to the rental of the land taken up as the whole amount of peshkash or quit-rent bears to the total revenue of the estate.

NOTE.—The proportionate reduction of peshkash or quit-rent above referred to should be distinguished from the grant of a further reduction of peshkash or quit-rent by way of compensation which is a form of fixed

remission and is permissible only in case the holder of unenfranchised service inam land taken up under the Act happens to be a zamindar or to hold some other inam for which he pays quit-rent—vide paragraph 23, clause (v), and paragraph 25, clause (ii) (*b*) supra.

(B.P. No. 267, dated 27th January 1885, B.P. No. 1115, dated 9th April 1885, B.P. No. 497, dated 29th August 1893, B.P. No. 70, dated 9th February 1894, and B.P. No. 65, dated 24th March 1902.)

31. *Acquisition of land for local bodies.*—When land is acquired for a body financially independent of Government (e.g., a local board or a municipality), the compensation awarded or the value of the land given in exchange should be charged to the local body, unless the purpose for which the land is acquired is such that it might be alienated free of charge under the provisions of Standing Order No. 21. In such cases the cost of acquisition may be borne by Government and the land acquired transferred to the local body on the conditions specified in Standing Order No. 24. Except in such cases, the revenue whether assessment, peshkash or quit-rent due to Government on the land taken up for a local body should be recovered from the local body concerned by annual payment, unless it has been alienated under section (ii) of Standing Order No. 24.

(G.O. Mis. No. 1942, dated 18th August 1919, and B.P. No. 88, dated 28th August 1919.)

32. *Disposal of land which is no longer required for the public purpose for which it was acquired.*—No land shall be disposed of, under this paragraph, to any person other than a British subject or a subject of an Indian State, except by the Collector or the Board and with the previous permission of Government. Every grant made under this paragraph shall be subject to the condition that, if the land is alienated without the sanction of Government, in favour of any person other than a British subject or a subject of an Indian State, the grant shall thereupon become null and void.

(G.O. No. 1867, Revenue, dated 13th May 1918.)

When land acquired for a public purpose is subsequently relinquished, it should be disposed of as follows :—

(i) If the land relinquished is likely to be again required for public purposes, it should be merely leased out for such term as may be considered desirable in each case.

(ii) If the land is situated within half a mile of the boundary of a railway station, it should be dealt with under the special rules applicable to such land, which are given in Standing Order No. 15, paragraph 35, clause (viii). If under those rules it can be assigned permanently, it should be disposed of under clause (iv) below.

(iii) If the land does not fall under either of the above descriptions and was originally building site or town land, it should be disposed of under the rules governing the disposal of Government land of this kind—vide Standing Order No. 21.

(iv) If the land is not declared unfit for permanent occupation under clause (i) or (ii) above and was agricultural or pastoral land at the time of the acquisition, it should first be offered at cost price to the parties to whom the proprietary right and the right of occupancy, if any, in the land originally belonged or to their heirs, on the terms and subject to the exceptions indicated in the Government of India Resolution printed as Appendix V. Forms of title-deeds to be issued in these cases are given in Appendix XII (17). If the original owners decline the offer, or, if under the resolution just referred to, they are not entitled to the first offer, and the land is not sold at its current market value to the owner of adjoining land, it should be sold by public auction without an upset price but subject to the annual assessment. The sale-proceeds of such land will be credited to Land Revenue unless the land was originally taken up for a railway, or for irrigation projects or Provincial irrigation works for which Capital and Revenue accounts are kept. In these cases the sale-proceeds should be credited to the railway, irrigation project or work or head of account to which the cost of acquisition was originally debited.

(v) Divisional officers are competent to reassign land acquired for public purposes when no longer required to the original owners or their heirs, on their paying the original compensation minus the 15 per cent allowed for compulsory acquisition. If any reduction is to be made from this amount on the ground that the fitness of the land for agriculture has deteriorated while Government were in occupation of it, or if the land is to be sold either to neighbouring landholders or by public auction, the previous sanction of the Collector must be obtained by an application in the form given in Appendix XII (18). It should be understood that all assignments and sales under these rules are made as matters of grace and that the authorities have full discretion to grant or refuse these concessions.

(vi) When lands are sold under clause (iv) subject to ryotwari assessment, it should be stipulated in the sale notice that the assessment on the land will be liable to alteration at any general revision of the land revenue settlement of the district.

(B.P. No. 207, dated 19th June 1897, G.O. No. 2940, dated 5th September 1910, B.P. No. 266, dated 23rd September 1910, B.P. No. 162, dated 17th May 1897, B.P. No. 290, dated 4th January 1898, B.P. No. 892, dated 12th November 1897, B.P. No. 195, dated 30th August 1905, B.P. No. 9, dated 16th January 1909, G.O. No. 557, dated 14th June 1905, and B.P. No. 147, dated 12th July 1905.)

Page 62, *B.S.O.* 90, *paragraph* 32 (*iii*).—(i) *Add* the following at the end of this clause :—

"Such lands relinquished by the departments of the Government of India should be sold in auction like town sites through the agency of the Revenue Divisional Officers and the sale-proceeds credited to the department to which the cost of acquisition was originally debited."

(ii) *Paragraph* 32 (*iv*), *fourth and fifth sentences.*—*Insert* the following after the word "railway" wherever it occurs :—

"or other department of the Government of India."

[III list, 1-10-29]

Page 63, *Board's Standing Order No.* 90, *paragraph* 34.—*For* the words "adjustment statements" in the fourth sentence *substitute* the words "statements of changes due to land acquisition."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

33. *Annual compensation statement.*—(i) Collectors should submit a statement for each calendar year showing the progress made in the taking up of land required for public purposes and the payment of compensation therefor, in respect of cases pending for one year or more. The statement should be prepared in the form given in Appendix XII (20) and should reach the Board's office not later than 31st January of each year. It will always be open to Collectors to call for half-yearly, quarterly or monthly statements from their subordinates, in special cases, as, for instance, where the progress made appears either from the annual statements or from inspection to be slow or where work of an emergent nature (e.g., the acquisition of land for a railway) requires to be specially watched.

(ii) The statement submitted to the Board should include the transactions of Special Land Acquisition officers, and when the jurisdiction of such officers extends over more than one district, each Collector should include in the statement for his district the transactions within the limits thereof. The statement should exclude cases of land acquisition dealt with by Forest Settlement officers.

(B.P. No. 211, dated 9th September 1899, B.P. No. 5, dated 5th January 1898, B.P. No. 391, dated 25th October 1895, G.O. No. 1693, dated 6th June 1911, B.P. No. 119, Land Revenue, dated 12th April 1915, and B.P. No. 92, dated 8th May 1918.)

34. *Check memorandum to be appended to land acquisition files.*—A check memorandum in the form printed in Appendix XII Form 21 should be appended to all land acquisition files. When the papers are finally recorded a copy of the check memorandum should invariably be submitted to the Collector whose duty it will be to see that the correct procedure has been followed and that, where necessary, immediate steps are taken to supply omissions or rectify errors. The scrutiny of the check memorandum from a land records point of view will be carried out by the Inspecting Tahsildar. In cases in which a Special Officer has been appointed under paragraph 5 if the special duty continues long enough, the Divisional Officer should, on receipt from the Tahsildar of the temporary subdivision records and adjustment statements referred to in paragraph 19 (ii) above after the incorporation of changes in the village and taluk accounts, forward these papers to the Special Officer and at the same time furnish him with information to answer questions 28, 29, 30 (*b*), 31, 32 and 33 of the check memorandum. Should, however, the special duty expire before the papers can be finally recorded the Special Officer will answer as many as possible of the questions in the check memorandum and then transfer the files to the Divisional Officer. The latter, after completing all further action, will answer the remaining questions, record the papers and submit a copy of the check memorandum to the Collector.

BOARD'S STANDING ORDER No. 91.

Rules relating to transactions with railways.—Rules for the guidance of the Revenue Officials in the acquisition and demarcation of land for railway purposes are laid down in Railway Board's Circular No. 889-P-16, dated 30th August 1918, as amended in the Railway Board's Circulars Nos. 889-P., dated 25th January 1921, 4th October 1921, 17th December 1923, 16th June 1924 and 7th August 1924, 877-W-23, dated 2nd July 1924 and 889-Tech., dated 15th May 1926, 24th February 1927, 4th March 1927 and 8th June 1928. All correspondence should in future be addressed to the Secretary to Government, Revenue Department, and all preliminary arrangements referred to in paragraphs 9 and 13 of the Railway Board Circular will be settled by the Agents of Railways in direct communication with the Collector of the district.

2. *Classification of land required for railways.*—(*a*) In the case of railways constructed by Government or by companies not entitled to receive land free of cost, under their contracts, land is divided into two classes:—

(i) Permanent land, i.e., land which will be required permanently after the work of construction is complete and the railway is open to traffic.

(ii) Temporary land, i.e., land which is required for temporary purposes only and which should be relinquished after the work of construction is complete.

(*b*) In the case of railways constructed by companies which receive land free of cost, land is divided into four classes:—

(i) Class A land, i.e., land which the company receives for permanent occupation free of charge under its contract or other arrangement with Government.

(ii) Class B land, i.e., land which the railway company receives for temporary occupation, free of charge, under its contract or other arrangement with Government.

(iii) Class C land, i.e., land which the railway company has to provide at its own cost.

(iv) Class D land, i.e., land which, though required in consequence of the construction of a railway, does not come directly into the occupation of the railway company and which is provided by Government free of cost.

3. *Transfer of Government land to Railway Administrations.*—Whenever Government land registered as assessed waste or poramboke is required for a railway, the Collector of the district should transfer it to the Railway Administration and debit the market

value thereof to the capital account of the railway or to the Government of India according as the railway falls under paragraph 2 (*a*) or 2 (*b*) above except—

(*a*) when the land required is poramboke vested in a local body, or

(*b*) when it is considered desirable to retain some rights over the land or to impose any conditions or restrictions, in which cases the sanction of the Government should be obtained.

Transfer of lands set apart for the common use of villagers in estates to Railway Administrations.—When land which has been set apart for the common use of villagers in estates as defined in the Madras Estates Land Act I of 1908 is required for the purposes of a railway, an application should be made to the Collector of the district under section 20 of the Madras Estates Land Act, 1908. The Collector should thereupon pass an order under that section. The order so passed should specify that the land is transferred to the Railway Administration concerned, subject:—

(*a*) if it is a road or path to the continuance of any rights of way or to the provision at the cost of the Railway Administration of other land for the diversion of the road or path, and

(*b*) in other cases subject to the provision at the cost of the Railway Administration of other land for the public purpose for which the land was originally set apart.

In no case should any debit to the accounts of the Railway Administration be made in respect of land so transferred other than the cost of providing the land required to divert the road or path or to provide a substitute for the land transferred.

(G.O. No. 2355, Revenue, dated 22nd November 1927, G.O. No. 2174, Revenue, dated 1st November 1927, and G.O. No. 2699, Revenue, dated 30th December 1927.)

4. *Relinquishment of land held by a railway in excess of requirements.*—When land which has been occupied for the purposes of a railway is no longer required, it should be made over to the Collector who will arrange for its disposal; when the intention in relinquishing an area is to transfer it to any particular department of Government or public body this intention should be communicated to the Collector, who will arrange for the disposal of the land accordingly. The sanction of the Railway Board is ordinarily not necessary to the relinquishment of railway land, except when a deviation from the rules laid down is contemplated. The disposal of lands held in excess of requirements will be governed by the following rules:—

(1) *Land which is likely to be required for the railway in the near future* should remain in the custody of the railway authorities; and they should not be called upon to relinquish it. The term

'near future' is to be liberally interpreted with reference to the probable requirements of the railway; and when there is any uncertainty, the benefit should be given to the Railway Administration in favour of retention.

(2) *Land which will probably be required in the distant future* should not be relinquished but be made over to the Collector for safe custody. Land so transferred is not to be let or sold except on such terms of temporary occupation as will not interfere with its being made available on short notice for railway purposes. These conditions may best be attained if the concurrence of the railway authorities is first obtained in any proposals that may be made for utilizing the land from time to time.

(3) *Land for which the railway is unlikely to have any further use* should be relinquished outright to the Collector for disposal.

The Collector should take charge of the relinquished lands from the Railway Administration and should ordinarily dispose of them by sale through the agency of the Revenue Divisional Officers as if they were valuable lands dealt with under Board's Standing Order No. 15 and credit the sale-proceeds to the Railway Administration. The orders of the Government should, however, be obtained through the Board of Revenue in

(*a*) cases in which the Collector considers that the land may be required for any department of Government;

(*b*) cases in which there is any doubt whether the land relinquished is land for which the Railway Administration should be paid; and

(*c*) cases in which any special difficulty or question of importance arises for consideration.

When a reasonable price is not likely to be obtained by the immediate sale of the land outright, there is no objection to the Collector retaining the land until an offer more commensurate with its value is obtained provided that the sale is not delayed for a period disproportionate to the anticipated increase in the price. In such cases all that is necessary is to ensure that, until sold, the land continues to be shown as belonging to the railway in the revenue accounts.

NOTE.—No land shall be disposed of under this Standing Order, to any person other than a British subject or a subject of a Native State, except by the Collector or the Board and with the previous permission of Government. Every grant made under this paragraph shall be subject to the condition that if the land is alienated without sanction of Government in favour of any person other than a British subject or a subject of a Native State, the grant shall thereupon become null and void.

(G.O. No. 1867, Revenue, dated 13th May 1918.)

Page 66, *B.S.O.* 91, *paragraph* 4 (3).—*Delete* the words " by sale through the agency of the Revenue Divisional Officers as if they were valuable lands dealt with under Board's Standing Order No. 15 " and *substitute* " in accordance with the principles laid down in clause (iii) or (iv) of paragraph 32 of Standing Order No. 90 " in its place.

[III list, 1-10-29]

(4) *Account adjustments consequent on the transfer of land to, and the relinquishment of land by, railways.*—The instructions given in Appendix VIII should be followed.

(5) *Lease of railway lands by the revenue authorities.*—Rents accruing from the leasing of railway lands which have been made over to the revenue authorities for safe custody or which, though relinquished outright are retained unsold temporarily by the revenue authorities should be credited to the Local Government.

(G.O. No. 2032, Revenue, dated 25th November 1926.)

5. *Removal of sand by Railway Companies from river-beds.*—Railway companies are permitted to take sand for ballast from the beds of rivers on the understanding that care should be taken that no injury is done to the water-course, bridges or sluices, or the banks of the rivers. When large quantities are taken, the Public Works Department must be referred to in the first instance.

(G.O. No. 363, dated 11th May 1861, B.P. No. 398, dated 15th November 1897, B.P. No. 202, dated 22nd May 1914 and See S.O. No. 25, paragraph 5-B-Clause iv.)

6. *Acquisition of land in British territory for Indian State Railways.*—(i) *Procedure for acquisition of land in British territory for Indian State Railways.*—In the case of railways constructed at the cost of Indian States requiring land in British territory, application should be made direct to the Local Government or Administration in whose territory the land is required, provided that the work for which the land is required has been duly sanctioned by the Government of India in cases in which such sanction is necessary. The revenue authorities will take the same steps for the acquisition of the land as are laid down with respect to land for Government State Railways or Companies' lines in British India.

(ii) *Payment of compensation.*—The following principles and procedure should be observed in the payment of compensation for land required in British India for railways constructed at the expense of an Indian State :—

(*a*) When land in British territory is required for the purposes of railway constructed or to be constructed by or at the expense of an Indian State, such land as is in private ownership will be acquired by the British revenue authorities as for a public purpose, under the provisions of the Land Acquisition Act. The State will be required to pay, as compensation for the land made over to it, the actual amount of the awards paid in the case of private land, and, in the case of Government land, the market value *plus* such incidental items of expenditure as the cost of establishment, demarcation, stationery. The State will also be required to pay compensation for the value of extinquished land revenue, the

amount to be settled by negotiation in individual cases, due regard being had to the indirect advantages accruing to the British Government from the railway. Where differences of opinion occur between the State concerned and the local revenue authorities as to the compensation payable a Board of Arbitration will be appointed consisting of one member appointed by the State, another by the Government of India (or by the Local Government in the case of a State which is in direct relations with a Local Government), and a third member appointed by mutual consent and their decision shall be final.

(*b*) Before making an award in the case of private land in British territory to be acquired for a State, or fixing the amount of compensation in the case of Government land, the responsible officer will be required to send all necessary details, together with the estimates of the amount payable, to the State and to give every facility for checking them to the officer or the officers concerned for the purpose, and to take into consideration any representation which such officer or any other duly accredited representative of the Darbar may make, whether orally or by letter. Such officers or representatives should be afforded an opportunity of appearing in person or by agent and of producing evidence as to the value of the land before any award relating to it is made or the amount of compensation is fixed.

(B.P. No. 55, Press, dated 30th September 1926 and G.O. Mis. No. 2001, Revenue, dated 18th November 1926.)

PART III

GENERAL PRINCIPLES AND PROCEDURE.

TABLE OF CONTENTS.

			PAGES
Chapter	I.	Scope and Limitations of the Land Acquisition Act	73-76
,,	II.	Powers and duties of the Collector under the Act	76-79
,,	III.	Jurisdiction of the Land Acquisition Court and its limitations ..	79
,,	IV.	Persons interested	79-80
,,	V.	Proceedings preliminary to the publication of a declaration under the Act	81-84
,,	VI.	Declaration of intended acquisition	84-86
,,	VII.	Procedure after the publication of a declaration	86-88
,,	VIII.	The award	88-90
,,	IX.	Market value	91-92
,,	X.	Agricultural land	92-94
,,	XI.	Building land	95-97
,,	XII.	Agricultural land fit for quarrying	97-98
,,	XIII.	Building sites	98-99
,,	XIV.	Buildings	99-101
,,	XV.	Trees and topes	101-103
,,	XVI.	The Principle of Reinstatement	103
,,	XVII.	Valuation of land in an estate and the apportionment of its value..	104-106
,,	XVIII.	Damages to be included in compensation	106-110
,,	XIX.	Improvement to land effected after publication of the notification under section 4, sub-section (1)	110-111
,,	XX.	Taking possession	111-114
,,	XXI.	Reference to Court	114-121
,,	XXII.	Apportionment of compensation	121-123
,,	XXIII.	Payment of compensation	123-124
,,	XXIV.	Compensation otherwise than in cash	124-126
,,	XXV.	When a claimant may file a regular suit	126-128
,,	XXVI.	Payment of interest on the compensation awarded	128-129
,,	XXVII	Temporary occupation of land	129
,,	XXVIII.	Acquisition for Companies	129-130
,,	XXIX.	Withdrawal from acquisition	130-132
,,	XXX.	Duties of the District Collector	132-133
,,	XXXI.	Acquisition for Railways	133-134
,,	XXXII.	Persons who are not competent to alienate	135-138
,,	XXXIII.	Correspondence regarding land acquisition	138-140
,,	XXXIV.	Miscellaneous	140

PART III.

GENERAL PRINCIPLES AND PROCEDURE.

CHAPTER I.—SCOPE AND LIMITATIONS OF THE LAND ACQUISITION ACT.

1. The acquisition of land is governed by the Land Acquisition Act I of 1894 as amended by the Land Acquisition Amendment Act XXXVIII of 1923. Certain Statutory Rules have been framed under section 55 (1) of the Act, prescribing the procedure to be adopted in order to give full effect to the spirit of the Amending Act, and these have the force of law. They have been further supplemented by executive instructions which, though not having the force of law, yet bind the officers of Government in their land acquisition work.

2. Care should be taken that land is not notified for acquisition when the Government are the sole owners of it. For this purpose a careful preliminary enquiry is necessary to ascertain that the land which is to be acquired is not really land at the disposal of the Government. If such land is notified for acquisition and if it is found at a later stage that it is Government land, no award should be passed; but the proceedings taken under the Act should be dropped and a notification withdrawing from the acquisition should be published.

(G.O. Nos. 1273–74, 20th August 1924.)

3. Public streets and roads vesting in a local or municipal body should not be acquired under the Act. In cases in which the Madras Local Boards Act applies, such roads should be excluded from its operation under section 60 (3). If the roads lie within the limits of a municipality they should be excluded from the control of the Municipal Council under section 61 (2) of the Madras District Municipalities Act V of 1920. A public street may be permanently closed under section 205 of the City Municipal Act (IV of 1919) with the special sanction of the Council and the Governor in Council.

4. There may be cases in which land assigned subject to a condition that it may be resumed when required has to be acquired for a public purpose. If such land is acquired the compensation to be paid will be determined by the conditions of the order of assignment. If no compensation is payable on resumption by the Government then none need be paid on acquisition by the Government for a public purpose. Under Board's Standing Order No. 15, paragraph 22 (4), the assignment by sale of land

likely in the opinion of the Government to be affected by irrigation projects or to be required for grant in exchange for land to be acquired for such projects should be subject to the condition that the Government may resume the land at their pleasure at any time until the original assignment is declared absolute by them. If land is resumed under this condition the purchase money or such share of it as is proportionate to the area resumed will be repaid to the purchaser. The Government will not be liable to pay compensation for any permanent improvements which may have been effected on the land before such resumption. The land so resumed should be taken possession of by effecting a peaceful re-entry on it in accordance with the instructions issued by the Government (G.O. No. 242, Revenue, dated 10th February 1927 and No. 1949, Revenue, dated 4th October 1927). If in any special case it is found inadvisable to follow this course proceedings under the Act may be resorted to, but the compensation to be paid in such a case will be only the amount payable according to the conditions of the grant on resumption.

5. Under Board's Standing Order No. 24, paragraph 10 a grant of State land whether for religious, public, charitable or other purposes is subject to the condition that if it is in the opinion of the Government required for a public purpose, the Government may resume it. The compensation payable shall in no case exceed the amount if any, paid to the Government, for the grant together with the initial cost or value at the time of resumption whichever shall be less of any buildings erected or other improvements effected on the land by the grantee in accordance with the terms of the grant. The land so resumed should be taken possession of by effecting a peaceful re-entry on it in accordance with the instructions issued by the Government (G.O. Nos. 242, Revenue, dated 10th February 1927, and 1949, Revenue, dated 4th October 1927). If in any special case it is found inadvisable to follow this course, proceedings under the Act may be resorted to, but the compensation to be paid in such a case will be only the amount payable according to the conditions of the grant on resumption.

6. When the Government are in the position of partial owners of land, the Act may be applied to acquire the partial interest vesting in private parties. One instance of such fractional interest is the case of buildings erected with the permission of the Government by private parties on land obtained by them on lease from the Government. In the case reported in Indian Law Report 34 Bombay 618, the Government was the owner of the land and the respondent held it as a tenant by sufference. It was held that he was entitled to compensation only for the buildings put up on the land, which alone could be acquired under the Land Acquisition Act. The Judges remarked "to acquire a land is not necessarily the same

thing as to purchase the right of fee simple to it, but means the purchase of such interests as clog the right of Government to use it for any purpose they like."

7. Another instance of such fractional interest is the case of a lease for a long term from the Government. In an unreported case from Guntur in which a lease for 99 years had still 25 years to run at the time of acquisition, the Madras High Court held that the claimants were entitled as compensation for their limited interest in the land to one-third of the freehold value of the land, i.e., to one-third of the price which the land would realize if it were held as a preferential grant subject to the payment of neither assessment nor ground-rent and were sold as such in the open market. Where such a lease had still thirty-three years to run, the High Court awarded to the claimants one-half of the freehold value.

8. A third instance of the acquisition of partial interests is the acquisition of rights to irrigate land with the water of a Government tank. A portion of the Perambur tank which had a wet ayacut was required for the purposes of the Madras and Southern Mahratta Railway Company, and its transfer to the company involved the draining of the tank so as to render it useless as a source of irrigation. The bed of the tank belonged to the Government, but the owners of the wet ayacut had the right to irrigate the ayacut with the water of the tank. In that connexion two questions arose, viz.—

(i) whether the rights of irrigation could be acquired apart from the land, i.e., the wet ayacut entitled to irrigation ; and

(ii) the Government being the owners of the tank-bed whether they could acquire the incorporeal rights in the tank outstanding in other people, viz., the right to take water from the tank for irrigation. It was held that the rights of irrigation might be acquired apart from the land entitled to irrigation and that though the Government owned the tank-bed, they could start proceedings under the Land Acquisition Act to acquire the outstanding interests on it so as to vest the absolute right to it in the Government.

(G.O. No. 977, Revenue, dated 30th June 1924.)

9. Generally the land with all the interests therein will be the subject of acquisition. But even limited interests in land may be acquired under the Act when the Government are the owners of the remaining interests in it. The Government are entitled to acquire an absolute interest in land by proceeding under the Land Acquisition Act, whether that involves acquisition of and payment for the whole land or only for partial interests therein. But the Government cannot acquire a partial interest in land leaving other interests outstanding in the owner. In such cases, the procedure laid down in Board's Standing Order No. 91 (3) should be followed.

10. When land set apart for the common use of the villagers in an estate is required for a public purpose other than the common use for which it was set apart, an application should be made to the Collector of the district to make an order under section 20 of the Madras Estates Land Act. Upon receipt of such an application the Collector will make such order as the merits of the case appear to him to require. If the application is complied with, the land will then be at the disposal of the Government for the public purpose in question and no acquisition will be necessary under the Land Acquisition Act.

11. In many cases of acquisition for local bodies or companies portions of Government land intermingled with the private holdings to be acquired under the Act will also be required, e.g., forest land and military land. The Collector of the district should be addressed in order that he may pass or, if necessary, obtain from the Government a formal order transferring the land to the local body or company.

12. The provisions of the Act should not be set in motion long before any scheme for acquisition matures, solely with a view to check an artificial inflation of prices. The Act does not contemplate delay in proceedings when once they have been set in motion.

CHAPTER II.—POWERS AND DUTIES OF THE COLLECTOR UNDER THE ACT.

It is a well-established principle of law that all statutory provisions must be strictly complied with, and the burden of proof of compliance rests upon those who claim statutory powers or base their title upon the exercise of statutory provisions. The attitude of Civil Courts invariably is that Acts of this character are to be liberally expounded in favour of the public and strictly expounded as against the Government. It is necessary that Land Acquisition Officers should bear these facts in mind at every stage of their proceedings. Thus, for example if general notices are not published or individual notices served as and when prescribed by the law, or any minimum interval required between two operations is not observed all subsequent proceedings are thereby rendered invalid. A record of the publication or service of all notices must therefore be kept, since the burden of proving the same will be upon Government in the event of the legality of the proceedings being subsequently contested. Similarly, if an award does not record under the hand of the acquiring officer a definite finding in respect of each and every particular laid down in section 11 of the Act, the award is incomplete and the finality provided for in section 12 will not attach to it. Or again, if Government takes possession of land beyond the limits prescribed by the declaration under section 6, or

Part III, Chapter I.—*Insert* the following as paragraph 10 and *re-number* the existing paragraphs 10 to 12 as 11 to 13 :—

10. When land on the security of which a loan has been granted by the Government under the Loans Acts, or a portion thereof is required for a public purpose, the Secretary of State for India in Council should not be shown as mortgagee either in the draft notification under section 4 (1) of the Act or in the draft declaration under section 6, as the provisions of the Act should be put into operation only for the acquisition of interests subsisting against Government. The procedure laid down in the second sub-paragraph in paragraph 2 of Chapter XXII in Part III of this Manual should be followed before the draft declaration is published.

[XXI list, 14-11-31]

in excess of the area for which compensation is given, it commits a trespass on private land and cannot rectify the mistake committed by valuing the excess and paying compensation for it as though it had been acquired under the provisions of the Act. Each declaration as it appears in the gazette should therefore be carefully checked as soon as it has been published and any errors or omissions should be remedied by the publication of an erratum before proceedings are carried further. These examples are by no means exhaustive. They are merely illustrative of the care which must be exercised strictly to comply with all statutory requirements from the commencement to the completion of acquisition proceedings.

2. The Collector acts as the Agent of the Government for the purpose of acquisition. He is clothed with certain powers to require the attendance of persons to make statements relevant to the matter which he has to investigate; but he is in no sense of the term a Judicial Officer and the proceedings before him are not judicial proceedings. In I.L.R., 33 Cal., 605, the Privy Council observed that the proceedings resulting in an award are administrative and not judicial, that the award in which the enquiry results is merely a decision binding upon the Collector as to what sum shall be tendered to the owner of the land and that if a judicial ascertainment of the value is desired by the owner, he can obtain it by requiring the matter to be referred by the Collector to the court. On this principle, it has been held that in the absence of fraud or corruption, the fact that the Collector obtained information without the knowledge of the claimants and did not disclose it at the enquiry will not vitiate his proceedings. The Collector is not a court within the meaning of section 115 of the Civil Procedure Code, much less is he a judge subject to the appellate jurisdiction of the High Court within the meaning of section 15 of the High Courts Act, 1861. As he is not a Judicial Officer and as his award is not a judicial proceeding, the Collector cannot administer an oath or affirmation or require verification of any statement by affidavit.

3. The Collector exercising functions under Part II of the Land Acquisition Act is acting only in an advisory capacity and is not exercising judicial functions at all. But when he acts under Part III he is acting in a different capacity because he has to decide there certain things—he has to send the case to the District Court, if certain provisions in section 18 of the Act have been complied with, one of which relates to the question of time, i.e., he has to decide whether the application is barred or not and in doing so, he acts judicially. Although the Land Acquisition Collector acting under Part III of the Act is a Judicial Officer, he is however not a court subordinate to the High Court and subject to the revisional powers of the High Court.

(I.L.R., 47 Mad., 357.)

4. Under section 14 the Collector can compel a party or witness to appear before him. Persons who refuse to appear are liable to prosecution for disobedience of the summons. There are, however, sufficient provisions in the Act itself effectively to punish parties who do not appear or produce proper evidence before the Collector. If no claim is made before him, but the party who makes default seeks a reference to the court under section 18 of the Act the court will not award compensation in excess of that awarded by the Collector.

5. As the Collector is the Agent of the Government he is bound in passing his award to take into consideration the departmental instructions of the Government. He should be independent of any local body or company for whom the acquisition is made. He is not a mediator between the owner and the acquiring body simply to register their private compromise in the form of an award. The Collector is not a mere purchasing agent lent to the acquiring body. He has a responsibility of his own and is bound to observe the formalities of the Act and the procedure laid down in the executive instructions of the Government. It is his duty to point out to the acquiring body what the rationale, the procedure under the Land Acquisition Act and the departmental instructions are. It is the Collector's duty to see that the owner gets a fair price for the land and that the Government do not pay more than a reasonable compensation. He has statutory obligations to discharge and his award under section 11 must be based on his own judgment, with reference to the data available. He must collect materials on which to base his award, scrutinize the data supplied by the parties and test them if possible by independent evidence. He must not be afraid of parties asking for a reference under section 18 of the Act against his award, as it is no part of his duty to avoid a reference to the court.

6. It is one of the Collector's most important duties under the Act to fix the market value of the land to be acquired. He must make himself familiar with the recognized principles of valuation and must also possess the necessary local knowledge and business capacity for applying these principles to the facts of a particular case.

7. The Collector acquiring land for a railway company is as much bound to follow the rules in Board's Standing Order No. 90, as he is if he was acquiring land for any other purpose. Rule 4 of section 1 of the revised Land Acquisition Rules for railways printed in G.O. No. 1959, Revenue, dated 14th August 1920 (Appendix III), expressly provides that the procedure to be followed should be in conformity with the instructions prescribed by each Local

Government. The Board's Standing Orders are the instructions so prescribed and should be followed by all Collectors acquiring land for a railway company.

CHAPTER III.—JURISDICTION OF THE LAND ACQUISITION COURT AND ITS LIMITATIONS.

According to section 3 (*d*) of the Land Acquisition Act 'Court' means a 'District Court' unless the Local Government has appointed a Special Judicial Officer within any specified local limits to perform the functions of the court under the Act. In this Presidency, the Local Government has appointed all sub-judges presiding over permanent sub-courts to perform the functions of a court under the Land Acquisition Act within the limits of their local jurisdiction.

(G.O. No. 770, Law, dated 2nd March 1924.)

2. The court of the Land Acquisition Judge is a court of strictly limited jurisdiction, the powers and duties of which are defined by the statute creating it. Such a court cannot legitimately be invited to exercise inherent powers so as to assume jurisdiction over matters not intended by the legislature to be comprehended within the scope of the enquiry before it. Section 18 of the Land Acquisition Act and the other sections which follow it make it reasonably plain that the question of the legality of the acquisition or the impropriety of the award of the Collector is not intended by the legislature to form a subject of enquiry by the Land Acquisition Judge (I.L.R., 38 Cal., 230). This has been affirmed by a recent decision of the Madras High Court.

3. The court has no power to review the award of the Collector, to cancel it or to remit it to him to recast, modify or revise it (I.L.R., 38 Cal., 230), (31 M.L.J., 827). The court has also no jurisdiction to review its own award.

4. The court is restricted to an examination of the question which has been referred to it by the Collector for decision under section 18 of the Act, and the scope of the enquiry cannot be enlarged at the instance of parties who have not obtained, or who cannot obtain, any order of reference.

CHAPTER IV.—PERSONS INTERESTED.

This expression includes all persons claiming an interest in the compensation to be paid on account of the acquisition of land under the Act. The term is not confined to persons whose title to share in the amount awarded has been admitted. A lessee with a fixed term to run is a person interested and is entitled to compensation

for any damage sustained by him and for the loss of profits during the unexpired term of the lease. A person may be interested in the compensation without having any interest in the land in the legal sense of the term, e.g., the various rights of the female members of a joint and undivided Hindu family in the joint family property have no market value, though such members would be persons interested in the compensation (37, I.L.R., Bom., 76). A party to a valid agreement to purchase land is also a person interested and when the land is acquired compensation must be paid for his interest in it. A tenant-at-will is not ordinarily entitled to compensation except for any standing crops raised by him (37, Indian Cases, 822). But in localities where interests of tenants-at-will are frequently sold and purchased for substantial prices, the mere precariousness of the tenant's title or his liability to ejectment at the option of the landlord will not negative his claim for the market value of his interest, because the question of market value is always determined with reference to actual commercial value rather than to abstract legal rights. A sub-tenant even though his interest is not transferable except with the sanction of the superior landlord has an interest in land which is capable of valuation. A person having a permanent and transferable interest in a tenure is entitled to compensation. A lessee of a tank was taking yearly leases of the tank for fishing and was making a profit by his trade. The Calcutta High Court held that he was in the same position as a yearly tenant of agricultural land, and was entitled to compensation (I.L.R., 28 Cal., 152). In I.L.R., 16 Mad., 369, however, their Lordships of the Privy Council remarked that quarry men who earned a living by quarrying in the Mahabalipuram hill were not persons interested in the land any more than a ploughman or a digger was interested in the land on which he worked for wages. The holder of an easement over the acquired land is a person interested and when the easement is destroyed by the acquisition, the owner of the dominant tenement must be compensated for his loss.

2. The land of a Hindu widow was acquired and she preferred her claim before the Collector after notice under section 9 of the Act. After the award she surrendered her estate to her reversioner who, dissatisfied with the award, applied for a reference to the court under section 18 of the Act. It was held that he was a person interested; that, though under section 25 (1) of the Act the court could not award more to the widow than the amount which she had claimed before the Collector her reversioner was not her legal representative and was not estopped from making a claim for a larger amount than the amount which she had claimed before the Collector.

(45, I.L.R., Mad., 421.)

CHAPTER V.—PROCEEDINGS PRELIMINARY TO THE PUBLICATION OF A DECLARATION UNDER THE ACT.

Prior to the enactment of the Land Acquisition Amendment Act 38 of 1923, the purpose of the notification under section 4 (1) of the Act was to confer on the officers authorized by the Government authority to do any of the acts mentioned in section 4 (2) of the Act. Such a notification was not issued in all cases but only if land was to be acquired for railways or other large projects when the owners of the land were likely to object to the officers of the department concerned entering on the land to do the acts mentioned in section 4 (2) of the Act. The Amending Act makes the notification under section 4 (1) compulsory in all cases, and gives a right to the persons interested in the land to prefer objections to the acquisition within thirty days from the date of the publication of the notification under section 4 (1) in the *Fort St. George Gazette* (G.O. No. 1718, dated 5th November 1925). According to the Act as amended, the market value on the date of the notification under section 4 (1) shall be taken into consideration for the purpose of sections 11 and 23 of the Act instead of the market value on the date of the declaration under section 6, which was the value to be taken into consideration according to the Act before it was amended. The notification under section 4 (1) remains, as before, an authority to the officers authorized by the Government to do any of the acts mentioned in section 4 (2). The statutory rules framed under the Act (Appendix I) require that immediately after the publication of the notification under section 4 (1) the Collector shall issue a notice calling on all persons interested in the land to prefer in writing their objections, if any, to the acquisition. The notice should be published at convenient places in the locality and copies thereof should be affixed to the notice boards in the offices of the Collector and Tahsildar and in the nearest police station. The notice should also be served individually on every person known or believed to be interested in the land to be acquired in the manner prescribed by sub-sections 3 and 4 of section 9. It is not necessary that the extent covered by the notification under section 4 (1) should exactly agree with the extent given in the declaration under section 6. But when the particulars given in the declaration under section 6 do not agree with those given in the notification under section 4 (1), the difference between the two should be reconciled at the time of submitting the declaration under section 6. In cases in which the extent of the land to be acquired within a survey number already notified under section 4 is increased when publishing the declaration, no fresh notification is necessary in respect of the additional area provided that the particulars in respect of the boundaries and the names of owners as notified continue to hold good in respect of the increased extent.

2. The notification under section 4 (1) should be published as early as possible and it should give such particulars as are necessary for identifying the land and the locality in which it is situated. If particulars concerning the survey number of the field, name of the owner, boundaries, etc., can also be stated, they should be given in the notification and the individual notices should be served immediately after the publication of the notification. But if these particulars cannot be given at once, the notification should be in general terms indicating as clearly as possible the position and exent of the land intended to be acquired and, as soon as the details of the land to be taken up are known, the individual notices should be served allowing fifteen days from the date of service for the presentation of objections.

(G.O. No. 196, Revenue, dated 6th February 1926.)

3. The notification under section 4 (1) should be submitted direct to the Government except in cases in which the acquisition is for the Revenue Department and the Board has to provide funds for the acquisition. It should however always be sent through the Board in cases of urgency in which it is proposed to dispense with the enquiry under section 5-A. If the acquisition is for a local body, the Collector should send the notification direct to Government in the Local Self-Government Department. A special officer appointed for the acquisition of lands for public works may, to avoid delay, send the necessary draft notifications direct to the Government in all ordinary cases, but he should send them through the Board of Revenue in cases in which any special difficulties or questions of principle are involved (G.O. Mis. No. 1148, Revenue, dated 14th July 1926). The notification should specify the officer who is to be appointed to perform the duties of the Collector under section 5-A of the Act (G.O. No. 666, Revenue, dated 29th April 1924). No officer should be appointed to perform the functions of a Collector who is below the rank of a Deputy Collector except a District Labour Officer who may be appointed to perform the functions of a Collector for the acquisition of land required for public purposes affecting the depressed classes (G.O. Press No. 1714, Revenue, dated 8th October 1926, and G.O. Mis. No. 2191, Revenue, dated 23rd December 1926). The publication of the names of the owners of the land in the notification is necessary whenever it is possible, though it is not expressly required by the Act, because the executive instructions impose on the Collector the duty of serving individual notices as far as possible. It is to be noted that the thirty days' time allowed to the parties commences from the date of the publication of the notification in the Gazette and not from the date of the Collector's notice.

(G.O. No. 1097, Revenue, dated 22nd July 1924.)

Page 82.—*Add* the following as a sub-paragraph to paragraph 2 :—

When land is required for providing house-sites for members of the depressed or other labouring classes or of a co-operative society, the names of the members to whom it is intended to assign the land when acquired should be given in the notice issued under sections 4 (1) and 5-A together with the extents proposed to be given to each. Information as to whether this instruction has been complied with should be furnished when submitting the draft declaration under section 6.

[VI list, 21-5-30]

Page 82, *Part III, Chapter V, paragraph* 3.—*Insert* the following between the words " Government " and " except " occurring in the first sentence :—

" through the department requiring the land."

[XVIII list, 22-6-1931.]

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Page 83.—*Omit* sub-paragraph 4 of paragraph 4.

[VI list, 21-5-30]

Page 83, *part III*, *Chapter V*, *paragraph* 5.—*Substitute* the following *for* the first two sentences :—

"Demarcation and subdivision work should be undertaken immediately after the publication of the notification under section 4 (1) of the Act. Any subdivision of survey fields, which may be necessary should be made and the subdivision records (together with resurvey sketches where necessary) should be forwarded to the Inspecting Tahsildar through the Land Acquisition Officer. The latter should not keep the records in his file, but should forward them to the Inspecting Tahsildar after making a note of any information which he may require. These records should be scrutinized by the Inspecting Tahsildar before the Land Acquisition Officer issues notices under section 9 of the Act. The subdivision records should be before the Land Acquisition Officer when he conducts the award enquiry."

[XI list, 3-11-30]

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4. When submitting a draft notification under section 4 (1), information should be furnished on the following points according to the purpose of the acquisition in each case :—

(1) When a site is required on behalf of a local board or a municipality, it would be stated whether the site has been approved by a competent authority as being suitable for the purpose for which it is intended.

(2) When land is acquired for a burning or a burial ground, it should be stated whether it is acceptable to the community and whether trial pits have been dug to make certain that the subsoil of the land is suitable to a sufficient depth.

(G.O. No. 787, L. & M., dated 24th April 1906.)

(3) When a site is required for a public building, it should be stated whether the proper Site Committee has approved the site.

[B.S.O. No. 81 (2).]

(4) When land is required for providing house-sites for members of the depressed classes and other labouring classes, it should be stated whether public notice has been given of the persons to whom it is intended to assign the land when acquired.

(G.O. No. 1942, Law (General), dated 11th August 1922.)

5. Subdivision work should be undertaken either prior to or immediately after the publication of the notification under section 4 (1) of the Act : any subdivision of survey fields which may be necessary should be made and the subdivision records should be before the Land Acquisition Officer when the enquiry under section 5-A of the Act is conducted by him or within one month from the date of publication of the notification under section 4 (1) of the Act. These records should be scrutinized by the Inspecting Tahsildars before the declaration under section 6 (1) of the Act is published in the Gazette. In the case of an acquisition for a large project, notification under sections 5 and 17 (*b*) (ii) of the Madras Survey and Boundaries Act, 1923, should be published in the *Fort St. George Gazette* and in the District Gazette before the commencement of the survey operations, the Special Officer for acquisition of land, if any, has been appointed and his field staff being notified as survey officers under the Act.

No fees will be charged on account of subdivisions effected in connexion with the acquisition of land, whether the acquisition is for a Government Department or a local body or a railway company.

(G.O. No. 755, Revenue, dated 21st May 1925.)

6. The urgency provisions of the Act can be applied only to waste or arable lands. The Land Acquisition Officer should verify by inspection either himself or by a responsible subordinate that all plots of land in respect of which the Government are moved to

apply the provisions of section 17 (1) or 17 (4) of the Act are actually waste or arable and that there are no buildings, tombs, or grave yards on them. The covering report forwarding the notifications should contain specific information to this effect.

(B.P. Mis. No. 920, dated 9th April 1927.)

7. In cases in which exemption from the operation of section 5-A of the Act is recommended and the Collector submits both the notification under section 4 (1) and the declaration under section 6, they may be sent together to the Press, but they should not both be published in one issue of the Gazette. The latter should be published a week after the former. The schedule of lands should be published with the notification under section 4 (1) and the declaration under section 6.

(G.O. No. 278, Revenue, dated 19th February 1925.)

CHAPTER VI.—DECLARATION OF INTENDED ACQUISITION.

1. Land cannot be acquired under the Land Acquisition Act unless (1) the Local Government makes a declaration that it is needed for a public purpose or a company, and (2) the compensation to be awarded for the land is to be paid by the company or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

2. The expression 'public purpose' is defined in section 3 (*f*) of the Act as including the provision of village-sites in districts in which the Local Government have declared by notification in the official gazette that it is customary for the Government to make such a provision. In this Presidency the Government have declared that it is customary for the State to provide village-sites in all the districts except Madras, The Nilgiris, South Kanara and Malabar. The Government may therefore acquire land for the provision of village-sites in these districts. Under section 112 of the Madras Local Boards Act, 1920, any local board may acquire land under the Land Acquisition Act to remove congestion of the population and to provide house-sites for the inhabitants of the local area forming its jurisdiction.

The Act may be applied to acquire land for a purpose which may be useful to a considerable portion of the public, even though the rest of the public may not be benefited by the acquisition. For instance, in one case the Government allowed the acquisition of the land required for a pathway to a well which was thrown open only to the caste people of a village.

(G.O. No. 100, Revenue, dated 22nd January 1924.)

3. The Government may, in their discretion, decline to make a declaration under the Act. In a certain case it was sought to acquire land belonging to a temple for the construction of a mosque.

The Government declined to declare that this was a 'public purpose' because it was likely that such action would be misunderstood and misrepresented.

(G.O. No. 231, dated 10th February 1925.)

4. The provision of irrigation facilities for fields is a public purpose, as such provision tends to lessen occasions for the grant of remission of the wet assessment and consequent loss of public revenue. Ordinarily the distribution of water to fields is a matter which should be settled by the villagers themselves: but when the Government are satisfied that water cannot be supplied otherwise than by acquiring the land required for a channel, they may acquire the land with a view to help individual ryots to secure irrigation facilities for their fields. Instances of such acquisition are—

(i) when there is an extension of irrigation to new blocks of land ;

(ii) when the source is disturbed by the Public Works Department and lands are transferred from one ayacut or source to another ; and

(iii) when the Government wish to prevent wastage of water by the provision of a channel for a particular field.

(B.P. Mis. No. 84, dated 15th January 1925.)

5. When land is acquired for an institution which though under private management serves a public purpose or when land is acquired for a public purpose which benefits only a section of the community, it is usual for the greater part of the cost of the acquisition to be provided from private funds. The Government in such cases contribute a small sum out of the public revenues in order to satisfy the requirements of the law that the compensation should be paid wholly or partly out of public revenues. Doubts have been raised as to whether this nominal contribution from public revenues satisfied the requirements of section 6 but in a recent judgment the Madras High Court have held that it does satisfy these requirements, however small the amount contributed may be.

(50 Mad., 308.)

6. What constitutes a public purpose is not defined anywhere. But it has been decided that the Government are the sole judges of what constitutes a public purpose. When once the Government have made a declaration under section 6, the civil courts cannot go beyond it and question the validity of the acquisition proceedings. Even if an acquisition is initiated by the Government on behalf of a single individual who pays almost the full cost of the acquisition, the proceedings taken are not illegal, provided that the Government are satisfied that the acquisition is for a public purpose and they make a small contribution towards the cost of this acquisition.

7. In the case of the acquisition of house-sites for the depressed classes through the agency of the Labour Department, the Government usually pay the cost of acquisition in the first instance and recover it subsequently in instalments from the persons for whose benefit the land is acquired. The Madras High Court have held that this practice is legal.

(49 Mad., 237.)

8. The draft declaration under section 6 of the Act may be submitted direct to the Government if no objection has been raised to the acquisition. If any objection has been raised the draft declaration should be submitted to the Government through the Board of Revenue with a report in duplicate under section 5-A accompanied by—

(B.P. No. 59 Press, dated 21st September 1927.)

(*a*) the objection petitions received in original,
(*b*) the record of the enquiry under section 5-A,
(*c*) the notices served on the persons interested,
(*d*) a statement reconciling any differences which may exist between the particulars as given in the published notification under section 4 (1) of the Act and the draft declaration under section 6 of the Act together with a certificate that all the differences have been reconciled ;

(B.P. Rout. No. 59, dated 5th January 1927, and Rout. No. 4580, dated 11th August 1927.)

(*e*) In cases in which the acquisition is undertaken on behalf of a local board or municipality a copy of the resolution approving the proposal and full information concerning the manner in which it is proposed to find the necessary funds.

9. When land which is proposed to be acquired under the Act is a portion of an existing survey field or subdivision, the portion to be acquired should be separately subdivided and mapped. In the draft declaration, the plot to be acquired and its boundaries should be described by the notations adopted in the temporary subdivision sketches and statements prepared for the purpose of the acquisition.

(B.P. No. 362, dated 1st February 1928.)

CHAPTER VII.—PROCEDURE AFTER THE PUBLICATION OF A DECLARATION.

Immediately after the publication in the official gazette of the declaration under section 6 of the Act the Collector should at once compare the published copy with his office copy and if necessary submit a draft erratum to Government for publication. Similarly an erratum in the vernacular quoting the date and page of the District Gazette in which the notification was published should, if necessary, be submitted to enable errors in the vernacular copy of the declaration as published in the District Gazette to be corrected. He should then forthwith issue notices under section 9 calling on all

Page 87, *Part III*, *Chapter VII*, *paragraph* 1.—*For* the last ntence *substi ute* the following :—

"The Land Acquisition Act does not prescribe that an erval of 15 days should be allowed in the case of these special ces also; but the Madras and the Allahabad High Courts have l that this interval should be allowed and it should invariably llowed in all cases."

[(1930) Madras Weekly Notes, 613; I.L.R., 39 Allahabad, 534.]

[VIII list, 26-8-30]

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age 87.—*For* the last sentence of paragraph 1, Chapter VII rt III as corrected by the Eighth List of Corrections, *substi*- he following :—

"These special notices are prescribed by section 9 (3) of the Act. A nterval of 15 days should be allowed in the case of these special also since section 9 (2) prescribes that interval in the case of the ral notices."

(G.O. Mis. No. 2332, dated 3rd December 1930.)

[XII list, 8-12-30]

Pages 86–87, *Part III, Chapter VII, paragraph* 1.—*For* the third sentence *substitute* the following :—

"Immediately the declaration under section 6 is published in the *Fort St. George Gazette* and a draft erratum submitted to Government, if necessary, the Collector should issue notices under section 9 calling on all persons interested in the land to appear before him and state their interests in the land, their objections, if any, to the measurements made, and the amount and particulars of their claims to compensation."

(G.O. Ms. No. 83, Rev. Dept., dated 15th Jan. 1931.)

[XIII list, dated 15-1-31]

persons interested in the land to appear before him and state their interests in the land, their objections, if any, to the measurements made, and the amount and particulars of their claims to compensation. This notice should be published at convenient places on or near the land. There should be a clear interval of 15 days between the date of the publication of the notice and the date fixed for the enquiry. In addition to this general notice, special notices in the same form should be served on the occupiers of the land and on all persons known or believed to be interested in it, or on their agents authorized to receive service on their behalf. The Land Acquisition Act does not prescribe that an interval of 15 days should be allowed in the case of these special notices also but the Allahabad High Court has held that this interval should be allowed and it is safer to allow it.

(I.L.R., 39 Allahabad, 534.)

2. The notice under section 9 must contain the material facts which will enable the owner of the land to identify the land intended to be acquired. The object of the notice would be defeated if the description of the property contained in it is not accurate enough to enable the parties interested to identify the land proposed to be acquired. For instance if a portion of the bed of a river and the approaches to an existing ferry have to be acquired for constructing a railway bridge, the notice to the owner ought to specify that both the bed and the approaches to the ferry are to be acquired.

(I.L.R., 34 Calcutta, 470.)

3. The notice should be served in the manner prescribed in sections 9 (3) and 9 (4) of the Act. In the case of an interested party who resides (i.e., is normally resident) or has an authorized agent within the Revenue district in which the land lies, service should, under section 9 (3) read with section 45, be made

(1) by personal tender if possible; if not,

(2) by service on an adult male member of his family; if this is impossible,

(3) by affixture to

(*a*) the dwelling house or place of business of the person or

(*b*) in the Collector's office and in the land to be acquired.

In such a case, service by registered post 'acknowledgment due' in lieu of service by affixture is optional on the part of the Collector [section 45 (3) Proviso]. If however service by affixture is decided upon, then notice should not also be sent by registered post, as to do so has been held to annul the services by affixture. Service by affixture must not be resorted to in the case of a purely temporary absence of the party from his home. In the case of an interested party who neither normally resides himself nor has an agent within the Revenue district, service by registered post (acknowledgment due) is no longer optional but obligatory under section 9 (4).

The service of a notice on the Manager of the office of the Receiver of an estate in the absence of the Receiver is not good and proper service. The notice should be served on each of the persons interested. It is not enough to serve a notice upon one of three brothers each of whom is equally interested in the compensation. The mere fact that one brother accepted notice on behalf of all will not raise a presumption that he has any authority to do so.

(81 Indian Cases, 676.)

4. Although the section requires that notices should be served on all persons interested, still if by inadvertence, the notice has not been served on any such person, the omission will not invalidate the proceedings if the person on whom notice has not been served had knowledge of the proceedings and if he has declined to appear merely on the ground that no notice had been served on him.

(I.L.R., 30 Calcutta.)

If all the persons interested have appeared, they cannot afterwards take the objection that notices had not been served on some of them. They will be bound to prefer their claim and cannot excuse a neglect to make a claim on the ground of want of individual notice. If a party really has received the notice under section 9 and has adduced satisfactory reasons for his non-appearance on the date of the Collector's enquiry, the claim put forward by him may be admitted and considered before the award is passed.

5. Under section 10 the occupier of land and persons interested in it may also be required to furnish a statement containing the names of all other persons possessing any kind of interest in the land and the rents and profits received from it during the preceding three years. In practice the notice under sections 9 and 10 are combined into one notice the form of which is given in the Appendix XII.

6. A notice of enquiry under section 11 should be given to a local body or company for which land is being acquired so as to enable the local body or company to exercise the privilege conferred upon it by section 50 (2) of the Act.

Chapter VIII.—The Award.

The award is an offer made by the Collector regarding the amount tendered by him to the owner of the land and is binding on the Government for whom the Collector acts as the agent. If the owner of the land accepts the offer, the award becomes final at once. If without specifically accepting it, he omits to claim a reference to the Court within the time allowed by section 18, then the award becomes final on the expiry of that time.

2. The award should be in the prescribed form (see Appendix XII). The Collector should fill up this form with his own hand and

sign it. He should also at the same time record in a separate order his reasons for arriving at the findings noted in the award. If this is done, there will be no difficulty in submitting to the Court the statement under section 19.

3. The Collector should not pass an award unless he has funds at his disposal for tendering compensation at once to the awardees.

4. Separate awards for different interests in the same land should not be passed; but there is no objection to the passing of separate awards for separate items of land.

5. Under section 12 of the Act, an award once passed is final and conclusive as between the Collector and the persons interested, of the true area and value of the land and the apportionment of the compensation among the persons interested. After the award has been passed, only clerical mistakes in it may be corrected. If through oversight the Collector has omitted one of the essentials in his award (viz., area, compensation or apportionment), he may afterwards rectify the omission by embodying it in the award. If the omission is not due to an oversight and if possession has not been taken under the award, the remedy is to withdraw from the acquisition and to start a fresh enquiry. But if possession has been taken under the award, there is no remedy under the Act. The party who may be aggrieved by the proceedings must be left to seek his remedy in a Civil Court.

6. The extent noted in the award must be the true area of the land. Compensation must not be paid for the area which appears in the revenue accounts if it does not actually exist on the ground. For example, a portion of a revenue field may have been washed away: Compensation should be paid only for the extent actually existing.

If a portion of a survey field is subdivided and acquired the areas of the resulting subdivisions have to be adjusted in accordance with the rules on the subject. The true area of the land acquired for purposes of section 11 of the Act is the adjusted area and not the area actually obtained by the use of the area square paper, by arithmetical calculation or by other means. An exception should however be made in cases in which the areas are recorded in square feet either because of the smallness of the area acquired or of the valuable nature of the land acquired. In such cases the actual area obtained should be adopted as the true area for awarding compensation.

(B.P. Mis. No. 2609, dated 15th September 1927 and B.P. Mis. No. 499, dated 10th February 1928.)

7. An award made and filed must not be revised or amended either by the Collector or the District Collector even though the persons interested may consent to the revision or amendment. Whenever it is found that any equitable claim has been overlooked

in an award or that any mistake has been committed, the Collector should report the matter to the Board of Revenue and should submit the explanation of the officers concerned for the omission or other irregularity. When an award has been passed, the Board of Revenue cannot, by its executive orders, cancel or modify it. In extreme cases (e.g., when the Collector who passed the original award was aware that there were other interests in the land for which compensation ought to have been fixed separately but failed to compensate for such interests) the Board may recommend to Government the payment of compensation for the additional interest as an act of grace. The amount should not however purport to be awarded under the Act.

(B.P. No. 245, dated 24th February 1921, and B.P. No. 963, dated 11th March 1910, printed in G.O. No. 1869, Revenue, dated 4th June 1910.)

8. In one case an award was passed by a mistake in the name of a person who was not the rightful owner of the field acquired. The compensation was rightly paid however to the rightful owner, after recording a statement from the person in whose name the award was passed, that he abandoned all claim to the compensation awarded to him.

(B.P. No. 1190, dated 22nd May 1924.)

9. In another case there was a mistake in the amount entered in the award due to an arithmetical error. The Government ordered that the error should be corrected under the authority of section 152, Civil Procedure Code, read with section 53, Land Acquisition Act.

(G.O. No. 1405, Revenue, dated 27th August 1926.)

10. In a third case, after acquisition proceedings had been completed and the land had been taken possession of, it was found that there were some mistakes in the numbering of the subdivisions of the fields entered in the declaration under section 6 of the Act. As a result of the mistakes, the fields which were actually acquired had not been included in the declaration. The compensation however had been disbursed to the parties whose fields had been acquired. As possession had been taken, the only way out of the difficulty was to take statements from the parties to the effect that they had ceased to have any title to the fields acquired. These statements along with the correct numbers and boundaries of the fields were ordered to be published in the *Fort St. George Gazette*, so as to serve as a public notice that the lands acquired had become the property of the Government and could not be made the subject of any transactions with those who had owned the lands before the acquisition.

(G.O. No. 1087, Revenue, dated 21st July 1924.)

11. The rule regarding the elimination of pies in Government accounts does not apply to the payment of compensation under the Land Acquisition Act.

CHAPTER IX.—MARKET VALUE.

"Market value" may be defined as the price which the owner of a property willing and not obliged to sell it might reasonably accept for it from one of a number of willing purchasers who are not obliged to buy it and with whom he has been bargaining openly for its sale and purchase. It will be seen that this definition excludes unconscionable bargains which take advantage of the necessity of the owner to sell his property or of the purchaser to buy land at whatever cost. The Bombay High Court has defined market value to mean the price which would be obtainable in the market for a concrete parcel of land with its particular advantages and its particular drawbacks, both advantages and drawbacks being estimated rather with reference to commercial value than with reference to any abstract legal rights.

(33 Bombay 483.)

The market value of different pieces of land similarly circumstanced in all other respects may differ from one another, though not necessarily in all cases, if the rates of the charges (e.g., assessment, ground-rent, quit-rent, etc.) to which they are subject are different.

2. The market value of a building is not the same as the cost of constructing it. Buildings may deteriorate in value; and a new building erected upon a piece of land may owing to a demand for it in the locality be valued at more than the cost of the land and the cost of constructing the building upon it. The price paid for a property may be unusually high as compared with the prices paid for similar property in the vicinity and the purchaser may have paid the high price owing to its situation being adjacent to his other property with which it will form a compact block. A temporary boom may have led the purchaser to pay a high price for the property.

3. The value of a property to-day is not represented by adding together the money paid for its purchase and the interest on that money calculated at the prevailing rate of interest for the period of time which has elapsed since the purchase. The market value is the price which the property would fetch in the open market to-day with reference to its present condition.

4. The prices noted in sale-deeds have to be carefully scrutinized. The prices may be overstated for many reasons. The purchaser may gain credit and respect if the price is exaggerated. The over-statement of price may be useful when he wishes to mortgage or sell his land. The price noted in the sale-deed may be the total amount due from the vendor to the vendee. If the creditor cannot recover his debt in any other way, he may show the whole amount of the debt as the price of the land which he has to buy,

Fictitious prices are sometimes recorded in sale deeds. When a project for acquiring land for Government is rumoured to be in existence, the owners of the lands which it is proposed to acquire sometimes enter into sale transactions with each other to inflate fictitiously the apparent price of land and to force Government to pay them unduly large compensation. By the recent amendments to the Act, the market value of the land for the purposes of the Act has been declared to be the market value which it bears on the date of the publication of the Notification under section 4, sub-section (1), and not its market value at the date of the publication of the declaration under section 6. This change in the law has made it incumbent upon Land Acquisition Officers to arrange to publish the notification under section 4, sub-section (1), as quickly as possible. But in spite of all precautions thus taken to publish this notification with the greatest promptitude, there is usually a certain interval between the time when the intention to acquire a block of land first becomes known and the date of publication of the actual notification. To no sale recorded during this interval should much weight be attached. This is so, not because it is legally inadmissible, but because it is a reasonable deduction from the ordinary interpretation of evidence. As soon as the owners of land suspect that their land will be acquired it is in their interest to promote recorded sales at extraordinarily high values. Any court will naturally suspect the bona fides of the sales effected under such circumstances.

Chapter X.—Agricultural Land.

The market value of a piece of land may be determined on one or more of the following bases :—

(i) The price paid for the same land or a portion of it in recent years, after making all necessary allowances for lapse of time, advantage of situation, and any other possible differences between the land sold and that to be acquired.

(ii) The price paid for similar lands in the vicinity in recent years, after making all proper allowances for lapse of time, advantage of situation, etc.

(iii) The net annual income from the land which may be capitalized at a certain number of years' purchase—the number of years depending upon the nature of the property, the state of the money market and other circumstances of the case. This method is more suited for land with buildings on it; but even in the case of buildings it may not be a fair method, as the present rental may be too low or too high. It may be usefully adopted for purposes of comparison with the evidence of sales when both are available, and it may be resorted to when there is no other evidence available.

2. The evidence of expert valuers is sometimes relied on: but in this Presidency there are at present very few persons belonging

to the professional class of expert valuers, and under present conditions, it is not usually safe to act on this kind of evidence unless it is supported by or coincides with other kinds of evidence—and in any case such evidence should of course specify not only the conclusions of the valuer but the reasons upon which his conclusions are based. The opinión of a Panchayat consisting of persons residing in the locality of the property to be acquired may be of value but the opinion must be viewed with extreme caution. Similarly the evidence of alleged offers for the land must be viewed with extreme caution. It is easy for claimants to adduce evidence of splendid offers for their land when the offers did not materialize into sales. Evidence of an offer will be entirely inadmissible unless the offer is proved by the offerer himself and unless he is prepared to state the grounds on which he offered to pay the price.

The evidence afforded by previous awards of Collectors for similar land cannot be used as authoritative evidence of market value, as they are only the individual opinions of the Acquisition Officers against which there would have been no appeals if the amounts awarded exceeded the real market value. It will be different if the awards were those of a Court. These latter will be admissible in evidence as the Court determines the amount to be paid after a judicial consideration of all the circumstances of the case.

3. The best method of fixing the market value of land is to make use of the price paid for it by the owner in recent years. But two considerations should be borne in mind: (i) whether he has paid so high a price that it may be considered that he has not displayed the ordinary caution which a purchaser of land should display; and (ii) whether there has been any rise or fall in the value of property in the neighbourhood within the time which has elapsed between his purchase and the date of the notification under section 4, sub-section (1), of the Act which would indicate that the property is worth more or less than the amount which he paid for it.

4. If the price paid for the land in recent years is not ascertainable, then the price paid for similar lands in the vicinity should be considered. In considering such sales, care should be taken to exclude all transactions in which, taking advantage of the pressing need of the buyer, the seller obtained as the price of the land a much larger amount than its proper value. The buyer may have had to pay the particular price for the land because no other land would suit his requirements. If the Government had acquired such land, they would have had to pay for it only such an amount as the owner would have been likely to get if he had wanted to sell the plot in the open market and there had been no neighbour

compelled by circumstances to purchase it. When considering the case of neighbouring lands which have been sold, the transactions should be compared with the case of the land to be acquired to see in what points they do or do not resemble each other. There may be trees, wells or buildings on the lands which may not have been mentioned in the sale-deeds. If such exist, their value should be deducted in order to ascertain the net price paid for the land sold, which alone will assist in calculating the value of the land to be acquired.

In calculating the real value of a property in the open market, from instances of recent sales of similar property in the vicinity, sales by limited owners should be distinguished from sales in the open market by absolute owners. In one case it was held that a sale of a piece of land by a Hindu childless widow could not be treated as a fair basis for calculating the market value of a similar piece of land in the neighbourhood in as much as the full value of property is seldom realized in such transactions.

(57 I.C. 734.)

5. In the case of dry lands irrigated by wells the market value is not so uniform as in the case of ordinary wet or dry agricultural lands since their value will depend not only on situation and fertility but also to a large extent on the capacity of the wells, which varies greatly from field to field. If sale figures are not available for the actual field which is being valued, transactions may be available in respect of similar fields comparable in all respects or only in respect of fields with greater or less advantages for which due allowance has to be made. In the latter class of cases, it is necessary to corroborate, by an independent indirect method such as the capitalization of the net return obtained from lease-deeds or otherwise, the estimate arrived at by a comparison of sale-prices. If by the acquisition of irrigated lands, portions thereof which are not being acquired are deprived of or cut off from their irrigation source, the owners should be compensated for the loss of irrigation facilities in respect of these portions unless arrangements are made to continue the facilities. It should be noted that to the damages awarded for the loss of irrigation facilities, severence, etc., the 15 per cent statutory allowance for compulsory acquisition should not be added—vide the wording of section 23 (2) of the Act.

6. The right to take sub-soil water from land to be acquired is not one of the benefits arising out of land which the Court or the Collector should take into account in awarding compensation. After acquisition, the acquiring body can use the land for whatever purpose they want to use it including the digging of a well in it and if by so doing they draw off the sub-soil water, no claim for damages would lie.

(G.O. No. 536, Rev., dated 8th October 1920.)

CHAPTER XI.—BUILDING LAND.

Owing to the advantage of its situation, agricultural land may be adaptable for building purposes and if there is a present demand for it as building site, it should be valued as such and not as agricultural land. The demand for it for building purposes will depend upon its location—nearness to the sea, a railway, main road, or the existing houses—and upon its size and shape, elevation, accessibility to a road, frontage, the nature of its foundation (rock or sand below the surface) and other special considerations. If there is a present demand for agricultural land for building purposes its market value should be calculated not merely according to the actual use to which the land is now put, but with reference to the most lucrative and advantageous way in which it is capable of being used to-day (15 Bombay 279). The owner is not to be deprived of the most advantageous way in which his land can be sold simply because it is subject to immediate acquisition [33 Bombay 28 (13).] In assessing compensation, the Acquiring Officer should consider not only the present purpose to which the land is applied, but also any more beneficial purposes to which in the course of events, it can within a reasonable period be applied. That is to say, if the land actually has to-day an enhanced value because of its possible use as a building site, owing to a growing demand for building land in the vicinity, then, in calculating the market value of the land, this factor must be allowed for. Special adaptability for building is an element to be taken into consideration. All advantages which the land possesses in the hands of the owner may be taken into consideration and the owner is entitled to have the price assessed with reference to those advantages which will give the land the greatest value (83 I.C. 442). The probability of a more profitable future use is one such advantage which may be taken into consideration, but it is only the *present value* of the future use which must be paid for.

2. When the special adaptability value exists only for a particular purchaser who has the power of compulsory purchase, it should not be taken into consideration in fixing the price, because to do so will be to allow the existence of a scheme which will be rendered possible only by sale to this particular purchaser to give to the lands to be purchased a value which can come into existence only after and because of the sale to this particular purchaser. But where the special adaptability value exists also for several possible purchasers, so that there is, so to speak a market value real though limited in which that special value goes towards fixing the market price, the owner is entitled to have this element of value taken into consideration. Examples of such special adaptability values are,

agricultural land useful for building purposes, land near a reservoir making it suitable for building a mill, land near a lake making it specially adaptable for a reservoir, etc.

3. The mere fact that the soil is such as will support buildings is not enough to convert the land into building sites. It has been frequently laid down that while the owner is entitled to be compensated at the highest rate for which he can sell the land for the most remunerative purpose for which it can be utilized, he is not entitled to be compensated for potential values when the opportunity for making such use of the land for the purposes which might create those potential values is so remote as to be negligible. (G.O. No. 1469, dated 22nd September 1925.) Although land may possess certain potentialities, it does not follow that these potentialities have any present value. The value to the owner consists in all the advantages which the land possesses, present or future, but it is the *present value* alone of such advantages which has to be determined. The true test is to consider whether there is a demand in the locality for building sites independently of the proposed acquisition. If there is such a demand then the value to be awarded is as for building land. It must be shown that there have been actual sales at rates well above the agricultural rate in the immediate vicinity and that these rates were really paid for non-agricultural reasons.

4. Two important considerations must be borne in mind :—

(i) Whether the land in its present condition is fit for building. If it is not, the outlay required to convert it into building sites must be taken into account in fixing its market value.

(ii) Whether there is a demand for the whole of the land. Sales of small plots for building sites afford no indication that the whole land will in the near future be required for building sites. If a large number of years must elapse before the whole block can be taken up as building sites, the present value of the amount realizable after the lapse of so many years will have to be arrived at.

5. It has been frequently laid down by Courts that the rates at which small plots of land have been sold cannot be applied to cases of the acquisition of large plots especially for village or town sites. (42 Allahabad 555.) The Madras High Court has observed that

" the acquisition of a small plot of 18 cents at Rs. 15 a cent cannot be made the basis of valuation for a plot like the one in question ($8\frac{1}{2}$ acres). It is impossible to say that such an acquisition stands on the same footing as the present one, nor can we properly deduce the market value of the land from such an acquisition as that, for when very small plots are acquired the actual rates at which they are acquired are not often properly scrutinized, the whole cost of the acquisition being small. "

But when no other evidence is available, the sales of small plots enable the Court to give an opinion regarding the value of the different portions of the plot and the value of the whole must be deduced from these. (33 Bombay 325.) When the Government organizes a scheme for the extension of house-sites and acquires a large plot of land, in assessing its value it must be remembered that the owner cannot obtain a price for the whole of it at anything like the value paid for small plots in the vicinity. It may take several years for a demand to arise for the whole plot. Even if it were to be parcelled out into a number of small building sites the owner probably could not at once realize for them prices equivalent to those realized by the previous sale of a few similar plots in the neighbourhood. The mere fact that Government has suddenly come into the market to acquire a large plot and has selected a particular plot and made it fit for building will not affect the market value of the plot before the date of the notification under the Act, i.e., at a time when no such future utility was contemplated.

6. While the special adaptability of agricultural land for building purposes is an element to be taken into consideration in fixing compensation the land cannot be valued as building sites if on account of any special circumstances of the case the use of the land as building sites would never be permitted. (33 Allahabad 733.)

7. The principle that an owner is entitled to the market value of the property not according to its present disposition but laid out in the most lucrative way in which he can dispose of it was applied in Bombay even to hypothetical building schemes and in the extraordinary developments which it assumed there, future utility was not estimated merely by prudent business calculations. Mere speculation was allowed to have a large influence, but this development was finally discredited even there. In Madras it never found favour. In 15 I.C. 672 (a Madras case) it was laid down that an award cannot be made on mere speculation and hypothetical schemes regarding the future development of land. The proper method to be followed in fixing the market value of land is to ascertain the prices at which similar lands in the vicinity are being sold.

CHAPTER XII.—AGRICULTURAL LAND FIT FOR QUARRYING.

When land is being acquired for use as a quarry the fact that the land is adapted for quarrying is a special circumstance which the owner is entitled to take advantage of, despite the fact that no one other than the local or other authority, for which the acquisition is being made, has ever or will ever make any demand for the land as a quarry. (44 Madras 268. 38 Bombay 37.) Compensation therefore should not be awarded for such land as mere cultivable land. In the case reported in 33 Bombay 483, it was,

however, held that the possibility of using the land for quarrying must be capable of realization. When the owner of the land had permanently leased it in several small parcels for building purposes, though the whole land as such, was fit for quarrying, its use as such could not become a realized possibility, and it was not competent for the owner after the award had been passed to convert it into a realized possibility by the expedient of buying out the permanent tenants.

2. In assessing the compensation to be paid for such land, it is first necessary to estimate the amount of gravel which can be realized from the land, having regard to the depth of the gravel in various parts of the land. The value of this quantity of gravel to the owner will be not the total value of the whole quantity paid at once, but the value of the cart-loads of gravel to be extracted from time to time for a certain number of years according to the demand of the district board or other acquiring body. The amount of compensation to be paid to the owner will therefore be the present value of what he might expect to realize in the future. The quantity likely to be required every year and the price of the gravel in the particular year will both be matters for rough estimation upon the available evidence.

(44 Madras 264 44 I.C. 1.)

3 The compensation was calculated on a different principle in the case reported in 39 Indian Cases 14 (Patna). The Government had been taking gravel from the land, and paying the owner at a specified rate. Subsequently, it was resolved to acquire the land and compensation was assessed by the District Judge at 20 times the average income actually obtained by the owner from lands of similar description and area. The owners claimed compensation for the entire amount of gravel from the land, at the rate at which Government had been paying them. This claim was not admitted and it was held that the method adopted by the District Judge was correct.

Chapter XIII.—Building-sites.

When claiming compensation for property suitable for building sites an owner may see to prove, either what the property would realize if sold in one block, or what the present value of the property would be if he were to divide it into plots and sell it in lots. When no evidence has been adduced of sales in the neighbourhood of such a large block of land, the evidence of sales of small pieces of land in the neighbourhood enables the Court to form an opinion regarding the probable value of different portions of the block, and the value of the whole must be deduced from this (33 Bombay 325.) The value of the large block of land however cannot be

deduced from the value of the small plots by a mere process of arithmetical calculation, as the supreme consideration is the immediate demand for the land in the market and this demand may not be sufficient to enable such prices as have been realized for a few small plots already sold to be realized for the whole property whether sold in lots or as a whole.

2. In valuing land suitable for building sites, the portion immediately abutting on a road has to be valued separately from the portion lying further away from the road. When determining the value of the former, breadth from the road frontage is a question of supreme importance. What is a suitable breadth must depend primarily on the character of the buildings in the locality. It cannot for example be taken as a hard and fast rule that the portion lying further away from the road must be worth half the portions immediately abutting the road. But it is reasonable to bear in mind how far a portion lying further away from the road stands from the road and fix its value with due regard to this and other considerations. (33 Bombay 325.) When the site is a small one, however, no differentiation in value can be made between the portion actually abutting on the road and the portion lying somewhat further away from it. (84 I.C. 371.) The fact that a site has frontage is of importance because of the special facilities or adaptability of such a site. Such a site consists of land lying alongside the public way with a certain amount of breadth away from the road. What should be allowed for the existence of frontage, varies according to the locality and the nature of the public way. The criterion is the most lucrative use to which the frontage in the particular locality can be put and the precise breadth which best suits that particular use in that particular locality.

Chapter XIV.—Buildings.

It is a fallacy to value land and building separately, and take the total as the value of both. The property must be valued according to what it is worth in the market, and not according to what it cost. The market value of the property must be fixed on the basis of the net rental value of the whole property. The building cannot be separated from the land for it will be impossible to say what proportion of rent is to be fixed on the building and what proportion on the land. When a property consisting of a building surrounded by $8\frac{1}{2}$ acres of garden land had been let as a whole block for several years before the acquisition of it by the Government and the lower Court awarded 20 times the net annual rental (deducting municipal taxes, revenue charges and cost of repairs) as compensation to the owner, the Madras High Court held that it was a reasonable

price and that it was not a proper method to value the land and building separately as independent items and award the aggregate value as compensation.

2. There is no objection to giving surplus land a valuation, but it must be really surplus land, separable from the building and its compound.

3. The market value of a building with its site is arrived at by capitalizing the average annual letting value. From the gross rent obtainable for the building the following deductions should be made :—(i) Taxes and land revenue charges which the owner has to pay, and (ii) the annual cost of ordinary repairs, which the Madras High Court fixed in one case at a month's rent. The resulting net annual rent should be capitalized usually at 20 years' purchase in the case of substantial buildings which are in a reasonably good condition. The number of years adopted must depend on the rate of interest which a first class security will yield in the money market. In the present state of the money market, 20 years' purchase of the net annual rent may be taken to be an approximately correct estimate of the value of a substantial building which is likely to stand for a reasonably long period. If the building is unsubstantial or unlikely to stand long, the net annual rent must be capitalized at a smaller number of years purchase, because securities which are not very safe pay a higher rate of interest.

4. When there has been no sale in the neighbourhood of similar buildings and the building in question has never been rented, the only course left open for ascertaining the market value is, to enquire into the original cost of construction. (44 I.C. 883). In arriving at the cost of a building the acquisition officer should consider the condition of the building and make due allowance for depreciation. He should not only make his own enquiries but should supplement them by obtaining an estimate of the cost of the building from the Public Works Department. This estimate may be taken as a guide though not the sole determining factor in arriving at the market value. Buildings which are substantial structures and which are considered by the revenue officers to be likely to cost more than Rs. 2,500 should be valued by the Public Works Department officers unless because of distance or other reason this course would cause undue delay.

(G.O. No. 210 Revenue, dated 24th January 1917.)

5. A property must be valued either on the rental basis, or on the basis of sales of similar properties in the neighbourhood, or on the basis of the original cost of the construction of the building. It is hardly necessary to point out that the first two methods must not be mixed up. In one case an acquiring officer calculated the market value of a property consisting of a building and the site on

which it stood, by capitalizing its net annual rental value and adding to the amount so arrived at, the cost of the building. As the rent derived for the property included the rent of the building, the method adopted clearly involved a double payment.

6. It must be remembered that according to section 49 of the Act a part only of a house, manufactory or other building cannot be acquired under the Act, if the owner desires that the whole should be acquired. When the question arises whether any land proposed to be acquired does or does not form part of a house, manufactory or other building, the test is to consider whether it is reasonably required for the full and unimpaired use of the house, manufactory or other building. This is a question of fact depending upon the circumstances of each case. The Madras High Court have held that when any portion of a block of buildings structurally connected with the main block is acquired, the burden is on the Government to show that the portion is not reasonably required for the full and unimpaired use of the house (27 Madras, 350). Godowns necessary as a residence for servants are part and parcel of a building and in fact are a most important part of the building for the purpose of letting it as a place of residence. In some cases such godowns therefore cannot be acquired under the Act without the consent of the owner. The question is however one of fact.

7. If in compliance with the desire of the owner the Government resolve to acquire the whole building, a fresh notification and a fresh declaration will be necessary. The Collector cannot proceed to pass his award for the whole building, without starting fresh proceedings for the portion not notified for acquisition. The Government have, of course, the alternative of withdrawing under section 48 from the acquisition of the portion already notified for acquisition if possession has not been taken.

CHAPTER XV.—TREES AND TOPES.

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Property consisting of land containing a plantation of fruit trees must be valued like all other property on the basis of the prices for which similar property in the vicinity has been recently sold or purchased. If there have been no such sales, the rental of the plantation must be taken as the basis. The suitability of the land for the purpose of the plantation and its situation with reference to the market for the fruit are points for consideration. It is not a correct method to value the land as if no fruit trees existed and then to add to this value, the price of the fruit trees valued as timber or as fruit trees yielding a net income.

2. The market value of a cocoanut tope is the price at which the tope would sell in the open market under normal conditions. In a certain case in which a coconut tope was acquired the

Collector paid compensation separately for the land as agricultural land and for the trees as yielding an annual income. The District Judge awarded the value of the land as building site; and for about 100 cocoanut trees standing thereon, he awarded an amount equal to five years' income from the trees. On appeal, the High Court pointed out that the same land could not be valued as a cocoanut tope and as building site, as the trees would have to be cut down if the site was to be used as building site. As there was no proper evidence of the market value of similar tope lands in the neighbourhood, the High Court fixed the market value by capitalizing the net income from the tope. In such cases there must be proper evidence as to the number of years during which the trees will continue to yield and as to the average income per tree.

3. In the present condition of the money market in this country it may reasonably be assumed that an investor will not expect to realize more than 5 per cent interest on money invested in a first class security. Assuming that immovable property yielding a certain fixed average annual income will yield that income in perpetuity, it is therefore usual to arrive at the value of that property by capitalizing the net annual income at 20 years' purchase. To arrive at the market value of immovable property in no case should income from it be capitalized at more than 20 years' purchase. For instance it will not be proper to assess the value of a cocoanut tope which is likely to yield a fixed annual income for 50 years at 50 times the average annual income. Though the total income from the tope during the 50 years will be 50 times the annual income it is the present value of the total income which has to be awarded as compensation; and for all practical purposes the immediate payment of 20 times the annual income may be taken to represent the present value of all the income which may be expected from the tope in the future.

4. The seigniorage rates for cocoanut, palmyra and other trees cannot form the basis for valuing them. When their value has to be paid under the Land Acquisition Act, trees and topes must be valued like any other items of property, at the market rates which should be ascertained by the usual methods followed in valuing the property. Seigniorage rates fixed by Government are unsuitable as they are intended to represent the value of the trees as timber, and even then a value fixed by the Government departmental rules is an average for a district or group of districts and not the actual value of the trees as timber in any particular town or village. Fees paid in any particular year for the use of trees for tapping are a very unsafe guide for ascertaining their value.

5. When fruit bearing trees exist on land which is valued as building site the owner of the land cannot claim the value of the

trees as sources of income. The proper value of the trees will be their value as timber. When the value of a property consisting of land with trees on it is assessed on the basis of rental, the value of the trees should not be separately assessed as timber, as the capitalized value of the rental will include the value of the land with the trees on it.

Chapter XVI.—The Principle of Reinstatement.

When the property to be acquired is used for some particular purpose which is not of a commercial nature, such as for a public path, for a church or for a school, it is difficult to estimate its value. The income derived from such land will not constitute a fair basis for assessing its value. One method which might be adopted in valuing such property is that known as "reinstatement" by which is meant that the amount of compensation to be awarded should be assessed according to the cost of acquiring an equally convenient site and erecting equally convenient premises. This principle, however, is not recognized in the Indian Law of Compensation. The principle applied in the Indian law is that anything which produces no income, profit or advantage capable of expression in terms of money can have no market value.

2. The principle of reinstatement may, however, be applied to check an extravagant claim. A well in private property saved its owner Rs. 100 in water rate. On its acquisition the owner claimed Rs 2,500 as its capitalized value. The cost of sinking a new well on his remaining property would not have exceeded Rs. 1,000. Though the law does not provide for reinstatement, this is clearly a case in which the compensation to be awarded should not much exceed the cost of building a new well.

3. The principle is thus applicable to the acquisition of a well or a tank. In valuing a tank or a well, the cost of construction of a similar new well or new tank may be calculated, and a deduction may be made if the tank or well to be acquired is in bad repair. If it has fallen into disuse, compensation is to be allowed only for the present value of the materials. The value of the land on which the tank or well is situated should of course be paid for. If the tank or well is used for irrigation purposes, an additional factor must be taken into account. If, by the construction of a new well or tank, there is a diminution in the extent of the irrigated area then for the damage caused to the owner by such diminution compensation should be paid. This will really be covered by section 23 (i) *fourthly*, of the Act as a case of injurious effect on other immovable property.

CHAPTER XVII.—VALUATION OF LAND IN AN ESTATE AND THE APPORTIONMENT OF ITS VALUE.

In valuing ryoti land situated in an estate as defined in the Madras Estates Land Act, the following considerations have to be borne in mind.

1. The market value of the land is the price which it would fetch in the open market. A full title in such land is seldom sold or purchased in the open market. It is only the kudivaram or the ryots' interest in it which is normally subject to the sale and purchase. The price realized by the transaction goes entirely to the ryot who sells his interest in the land and the landholder—using the term in the sense in which it is defined in the Madras Estates Land Act gets no portion of it. The purchaser steps into the shoes of the vendor as the ryot and has the same obligation as the vendor to pay the rent fixed on the land.

2. The market value of the ryot's interest has to be fixed with the help of the sale deeds for similar lands in the vicinity. If they show that the land can command a higher price than ordinary agricultural land by reason of its being fitted for building or other special purposes, the whole of such price must ordinarily be paid to the ryot. The acquiring officer need not enquire why the ryot got a particular price for such similar land; but he must be satisfied about the actual similarity. If in such a case there have been no sales in the vicinity of similar lands, i.e., of lands which, by reason of their situation are fit for building or other special purposes, this circumstance which differentiates the particular land to be acquired from other lands must be given due consideration in fixing its value.

3. The interest of the landholder in the land is the right to collect a fixed rent on the land subject to the payment out of it of the proportionate peshkash or quit rent due to the Government. The difference between the rent and the peshkash or quit rent is the income derived from the land by the landholder. Compensation has to be paid for this interest in the land. This interest comes for sale into the open market only on those rare occasions on which a landholder sells a portion of his estate. If the lands involved in such sales are similar to the land to be acquired, then the melvaram of the land to be acquired may be fixed with reference to those sales. If there are no such sales of similar lands, the only method of valuing the interest of the landholder is to capitalize his income from the land at a certain number of years purchase, at present usually 20. Under sections 30 and 31 of the Madras Estates Land Act the rent may be enhanced under certain circumstances, but the chance of such enhancement is usually negligible and need not be taken into account, unless the landholder can prove that he has a right to enhance the rent at an early date. Usually therefore no compensation need be paid for this chance of enhancement.

4. The market value to be paid for land acquired if situated in an estate is therefore the total of the value of the kudivaram or ryot's interest and the melvaram or the landholder's interest in the land. This total amount must be apportioned in the award between the ryot and the landholder. The ryot gets the full market value of his interest and the landholder the value of his interest as fixed in paragraph 3 above. If the landholder takes objection to this apportionment of the compensation, the acquiring officer has to pay the whole of the compensation into the court, under section 31 (2) of the Land Acquisition Act, and make a reference to the court. The matter of the apportionment will thereafter be decided as between the parties in the court.

5. In the case reported in 36 Mad., 395 this question of apportionment between the zemindar and the ryot was considered by the Madras High Court. It was apparently a case in which the zemindar received a share of the produce as rent. It was there stated that in apportioning the compensation, several factors should be taken into account, viz., the respective share of the zemindar and ryot in the produce, the expenses of cultivation, the fact that the cultivator had a home and a sphere for labour for himself and his family and the nature of the tenure. In the particular case there was no evidence on the part of the zemindar concerning the ratio of compensation to which he was entitled. Their Lordships thereupon adopted the ratio laid down in 4 Mad., 367 that three fifths was to be apportioned to the zemindar and two-fifths to the ryots with permanent occupancy rights.

6. In rare cases the patta or engagement of the ryot with his landholder may provide special rates or terms if the land should be used for building purposes. In such cases the terms of the engagement will be the guide to the acquiring officer in apportioning the compensation.

7. When in an estate as defined in the Madras Estates Land Act 'waste' lands or porambokes such as the beds of channels or tanks which are not set apart for the common use of the villagers and which belong to the landholder are acquired, the market value of the land should be paid to the landholder. The market value of such lands should be fixed by determining the market value of the occupied lands of the same quality in the village and deducting therefrom the amount required for rendering the lands in question fit for cultivation. As no rental or revenue is derived by the landholder from such lands or the rental or revenue derived is negligible, there is no need for any additional compensation by way of reduction of peshkash or otherwise.

(B.P. Mis. No. 1036, dated 20th April 1927.)

In the case of lands which belong to the landholder and from which he derives a regular income, as for example, home-farm land, it will be necessary to allow a reduction of peshkash. To determine this amount of reduction an assumed rental for the lands must be adopted with reference to the rentals actually received from similar lands in the neighbourhood, the kudivaram interest in which is owned by somebody other than the landholder.

8. When wet lands are acquired in an estate in which the mamul wet area has not been localized, it is sometimes difficult to decide whether the lands which are being acquired are or are not mamul wet lands. If the water-rate due on the lands in the estate is in practice being collected from the tenants the lands for which the tenants pay water-rate are presumably not mamul wet lands and the exact nature of the lands which are being acquired can be determined by ascertaining from the accounts maintained by the village officers whether water-rate is or is not actually being paid on them by the tenants. If, however, the whole of the water-rate on the lands in the estate is in practice being collected from the landholder the case is not so simple. In these circumstances the lands to be acquired should, in the first instance, be treated as not mamul wet lands and should be valued on that basis. If, however, the landholder or the tenant is dissatisfied with this procedure and the amount of compensation calculated in accordance with it and proves that any particular piece of land is mamul wet land, the land should be revalued as such and the amount of compensation to be paid to the proprietor and the tenant respectively should be calculated on that basis.

Chapter XVIII.—Damages to be included in compensation.

Under the first clause of section 23 (1) of the Act, the Collector has to pay the market value of the land acquired at the date of the notification under section 4, sub-section (1), and has also to pay, under section 23 (2), 15 per cent of such market value in consideration of the compulsory nature of the acquisition. In the term market value is included not only the value of the land but also the value of any trees and crops standing on the land at the time of the notification under section 4, sub-section (1), if they are not removed before the Collector takes possession of the land. In addition to paying the market value, the Collector has to consider certain damages which may be sustained by the person interested in the land and to pay compensation for such damages if any. This matter is dealt with in section 23 (1), clauses 2 to 6.

2. *Clause secondly.*—If there are trees or crops standing on the land at the time when the Collector takes possession of the land, the value of which is not included in the market value as explained in

paragraph 1 above, then the value of such trees or crops should be paid for. Obviously these trees and crops will have come into existence subsequent to the date on which the land was inspected for the preparation of the notification under section 4, sub-section (1), and for the preparation of the valuation statement. As a rule the Collector will do well to avoid paying for such trees and crops and to persuade the owner to remove them himself, before the Collector takes possession of the land.

3. Except in cases of emergency the owner of the land should be allowed to harvest the standing crops before the land is taken possession of. In cases of emergency, if it becomes necessary to take possession of the land with crops standing thereon, their value should be paid for. If the crops were on the land on the date of the publication of the notification under section 4 (1), 15 per cent of the value should also be awarded in consideration of the compulsory nature of the acquisition. If the crops were raised subsequently, damages sustained by the person interested by reason of the taking of the crops should be paid for. The 15 per cent allowance for compulsory acquisition need not be paid in connexion with these damages. The measure of damage will depend on the circumstances of each case. If the crops are quite tender, the cost of cultivation and of sowing will be the measure of the damage. If the crops are well matured, the value of the expected outturn less the cost of harvest, will be the measure of the damage. If the crop is immature its gross value will be its value, when mature, based upon its present condition subject to a deduction for the cost of reaping it and preparing it for market and of any further village, watching, etc., which may yet remain to be done and any rent or assessment for the year not yet paid.

4. *Clause thirdly.*—The damage sustained by the person interested at the time when the Collector takes possession of the land by reason of the severing of such land from his other lands has to be paid for. There will be no occasion, however, for paying for such damages if the Collector has carefully examined the question before publishing the draft declaration under section 6 and has finally notified the boundary so as to include such fragments of land as could not reasonably be left out, or for which a severance claim would be excessive.

5. To sustain a claim under this head, the land acquired and the remaining land must together form one holding, where several pieces of land owned by the same person are, though not adjoining, so near together, and so situated that the possession and control of each gives an enhanced value to all of them as one holding, they are lands held together; so that, if one piece is compulsorily taken and converted to uses which depreciate the value of the rest,

the owner has a right to compensation. Two classes of cases may be distinguished —(1) The damage may be sustained, e.g., by loss of access across the acquired land to the remaining land. If no other access is possible for the remaining land, then the remaining land must also be acquired. If some other access is possible though it is not as convenient an access as the one over the portion of the land acquired, then compensation should be paid for the damage incurred by the loss of the convenient access. (2) The land left unacquired may be a piece too small for profitable cultivation or other use. It may be either quite useless to the owner who can then claim its full value; or become diminished in utility, when part of its value may be awarded. But if the amount likely to be awarded for a severance approaches the full value of the land, Government can decide to take the whole land under section 49 (2). In this latter case, no fresh notification or declaration is necessary. The Local Government has to order the acquisition of the whole land and it is enough if the Collector furnishes a copy of this order to the person interested and then proceeds to make his award under section 11.

6. The damage must arise out of the severance, and be the direct result of it. In deciding whether a portion of a property can be taken without detriment to the remainder, the Collector should take into consideration all the circumstances of the case including the sufficiency or otherwise of any proposed new access. Thus when a railway company took a portion of certain premises and provided access to the remainder by means of a right of way over the portion taken, it was held that the company could grant that right of way, and the damage by severance must be diminished correspondingly. Similarly when a part of a tea garden was acquired for the construction of a railway through it and the garden was divided into two portions, and the coolies could not cross freely because the railway ran in very deep cuttings, it was held that the owners of the garden were entitled to compensation by reason of the severance, because extra coolies were required for the further portion of the garden and the cost of working that portion was substantially and permanently increased. The additional compensation to be paid on this ground was taken as the capitalized amount of the cost of extra labour so required yearly. (28 Calcutta, 685.) The measure of such compensation is the full consequential loss, which the owner has sustained by reason of the severance of the land taken from his other lands.

7. The damage must be one sustained at the time when the Collector takes possession. This would seem to include not only damage actually caused at the time, but also the damage which could

be reasonably anticipated and estimated then. Compensation must be paid, not only for the damage sustained at the time, but also for a continuing damage caused by the acquisition (25 Calcutta, 346).

8. No doubt if the use, to which the land when acquired is put, causes damage or diminution of value to the remainder of the estate not acquired, then a severance claim can be sustained. But if the land to which damage is thus caused is not in the ownership of the parties to the acquisition, the owner of the land expecting or suffering the damage (unless it be a loss of easement to the owner of the acquired land) has no status before the acquiring officer. He is not a party interested within the meaning of section 3 (*b*) of the Act. He can only bring a suit for damages just as, and no more than he might, against any other neighbour who has used his land in a way which has caused him injury and which is legally actionable. When a claim for severance was based on the prospective employment of a Brahman cook to carry offerings of food to the idols of a temple, it was held that the claim was too sentimental to admit of any compensation being awarded (10 Bombay, 591).

9. *Clause fourthly.*—This clause embodies the English principle of injurious affection. The principle is that persons a part of whose land has been taken compulsorily from them, should, apart from its actual value, be compensated for injuries done to their other property by the taking. The claimant must be a person interested in the land acquired. No one who is not interested in the land acquired can claim compensation on the ground that his land which was not acquired was injuriously affected by the acquisition, or that his movable property was so affected, or his earnings. He may have a claim for damages under the general law enforcible in a civil court but not under the Land Acquisition Act. Where land was taken out of a tea garden for the construction of a rifle range near a cantonment for the use of troops, and there was evidence to show that the rifle range would interfere with the working of 8 acres of land behind the butts—for no prudent owner would put his coolies there while firing was going on—the value of the remaining property became depreciated and the owner was entitled to compensation (2 Indian Cases, 562).

10. The distinction between the third and fourth clauses has to be observed. Clause thirdly deals with the damage caused to the owner of the acquired land by reason of the acquisition severing the acquired land from the other land of the owner. Under the fourth clause, the damage dealt with is that caused to the owner by the acquisition causing some injury to his movable or immovable property or to his earnings. Under the former clause the damage if any caused by the mere severance has to be paid for, while under the latter clause no compensation will be payable unless the remaining property is injuriously affected, or the earnings of the owner of

the land acquired are injuriously affected by the acquisition. The distinction is not very broad or sharp and cases may occur which will fall under either clause.

11. The principle of injurious affection was held not to apply to the case of the construction of a railway bridge across a river near the place where a ferry existed. If by the acquisition the plying of the ferry was interfered with, so that the profits of the ferry were reduced, the owner of the ferry could not claim damages. But when both banks of the river which were used as landing places for the ferry, were acquired for the purposes of the bridge and the access to the river, and with it the opportunity for plying the ferry were destroyed, the owner was entitled to compensation (34 Calcutta, 270).

12. When land was acquired for opening a sewage depot, the claimant was held to be entitled to compensation on the ground, that the contemplated use of the land acquired caused a depreciation in the value of the claimant's other land, though the sewage works might be so conducted as to cause no nuisance. A mere personal inconvenience is not a ground for compensation, as where a claimant was annoyed by persons standing on the bank of a railway overlooking his premises. (The case cited at 25 Calcutta, 351.)

13. The Government acquired some land to widen a channel and make a flood bank. As a result of it, the claimant had to cross over a great distance to go to his other land for carrying manure, etc. The Madras High Court held that he was entitled to damage for diminished facilities of communication and access to his other lands. (31 Indian Cases, 259.)

14. *Clause fifthly.*—Under this head compensation may be given for the loss which a person interested will sustain by reason of the interruption of his business from the time when he parts with his premises until such time as he can obtain another building for carrying on his business. The costs incidental to removal have been held to cover the value of the unexpired lease in the case of a tenant from year to year.

15. *Clause sixthly.*—The owner of a house would be entitled under this clause to damages for loss of rent during the period stated in the clause if he were unable to let his premises in consequence of the intention to acquire them.

CHAPTER XIX.— IMPROVEMENTS TO LAND EFFECTED AFTER PUBLICATION OF THE NOTIFICATION UNDER SECTION 4, SUB-SECTION (1).

Under section 24 *seventhly* of the Act no compensation need be paid for any outlay on or improvement to the land acquired if it has been made without the Collector's sanction and after the publication of the notification under section 4 (1). What constitutes an

improvement in the case of agricultural land must be decided on the facts of each case, e.g., it is clear that the raising of the usual seasonal crops on the land cannot be said to be such an outlay or improvement as will disentitle the owner from being compensated for it under section 23 *secondly*. It is equally clear that the application of costly chemical manures to the land will not entitle the owner to compensation on that account.

2. When the improvement does not represent anything attached to the ground it should be ignored, as the land owner can remove it. Even when it is something attached, e.g., a house built on or a well sunk in land notified for acquisition, the outlay for making the improvement incurred by the owner should not be taken into account in fixing the compensation. The owner should be paid for the land as it stood on the date of the publication of the notification under section 4 (1). He will have to remove the materials of the house, at his cost and in the case of a well he may be required to fill it up at his cost.

Chapter XX.—Taking possession.

Except as provided by section 17 under which the Collector under certain circumstances may take possession of waste or arable land before passing an award, possession of the land can be taken only after the Collector has made his award. But neither the fact that the amount of the compensation has not actually been paid nor the pendency of award proceedings in the Civil Court is a bar to taking possession. After possession has been taken in accordance with any provision of the Act the land vests absolutely in the Government free from all encumbrances including easements over it and it is then impossible for the Government to withdraw from the acquisition. Possession in accordance with the provisions of the Act cannot be taken in anticipation of the proper proceedings being taken to acquire the land. Possession under such circumstances can be secured only in one way, viz., by private arrangement, i.e., if the owners of the land agree in writing to permit the departmental officer concerned to take possession in consideration of the fact that formal acquisition proceedings are pending. Such possession by private arrangement is not possession in accordance with the provisions of the Act and does not prevent the Government from withdrawing from the acquisition. It is, however, seldom desirable to take possession of land in this way, for the action of the departmental officer in so taking possession is likely to lead to difficulties should the Government eventually decide not to acquire the land under the Act and may possibly lead to complications and claims to damages should the reputed owners from whom written consent was taken prove not to be the true owners, or all the true owners, of the land.

2. In cases of urgency possession may be taken under the Act before the award has been passed, but in such cases the following conditions must be fulfilled :—

(1) The land must be waste or arable. Arable land means land which is ploughed for annual crops. The expression does not include topes, homesteads, tanks or lands under tea or the like.

(2) A specific order of the Government permitting the Collector to take possession before the award has been passed must have been issued by the Government and received by the Collector.

(3) The declaration under section 6 must have been published.

(4) The notice under section 9 and the notice under section 10 (if necessary) must have been issued.

(5) Fifteen days must have expired after the publication of the notice in accordance with section 9 (1) except in the case specified in section 17 (2).

(6) Before taking possession the Collector must have offered to the persons interested, compensation for standing crops and trees on the land and for any other damage sustained by them because of such sudden dispossession and not excepted in section 24. Care should be taken that the money is not paid to a wrong person.

(7) In the case of a building at least forty-eight hours notice of the Collector's intention to take possession must have been given to the occupier by the Collector.

Such possession cannot be taken in cases of temporary occupation. Only the Collector can take possession under the Act. The officials of a Company or a local authority for whom the property is being acquired have no right to enter upon the property in anticipation of the Collector taking possession whether under the ordinary provisions of the Act or under the section which permits the Collector to take possession before the award has been passed.

3. Section 17 (2) deals with cases in which immediate possession may be taken of any land, if it is required for the maintenance of railway traffic or for making a river-side or ghat station or for providing convenient communication or access to such station. The provisions of the section should be carefully observed before taking possession thereunder.

4. In certain circumstances the taking of possession may have to be postponed—

(1) If claims have been made largely, in excess of the estimate, and the Collector, though not prepared to allow them, thinks that there are reasonable grounds for thinking that the Court may largely enhance his award. If he does not accept them, he should either defer making his award or, if he has made his award and the time for making a reference has not expired, he should defer taking

possession until he has consulted the department for which the land is being acquired or his superior officers and has obtained their orders.

(2) Under section 49 (1), second proviso, the Collector is bound to refer to the civil court any question which may arise as to whether any land proposed to be taken under the Act does or does not form part of a house, manufactory or other building. When a reference is made on such a question the collector should not take possession of the land until after the question has been determined by the court.

5. In the case of acquisition for the construction of new railway lines, the Government usually treat such acquisition as a case of urgency and order that action should be taken under section 17 (1) of the Act and that the provisions of section 5-A may be dispensed with.

(G.O. R. No. 711, dated 3rd August 1925.)

6. Under section 16, the acquired land vests absolutely in the Government. If the land has been acquired for a local body, it is sufficient in order to establish its title to the land to assign or alienate the land in the ordinary way in favour of the local body. Such assignment or alienation is not a part of the acquisition proceedings but is a proceeding subsequent to the passing of the award. If the land has been acquired for a local body for the purpose, e.g., of erecting a school, it should be stipulated in the order of assignment or alienation that the school should be built within a specified period, failing which the land will be resumed. When land acquired for a municipality was handed over without such a stipulation, and the municipality leased the land for a rice mill, the Government were unable to resume the land. As the land revenue on the land had been alienated in favour of the municipality subject to the condition that the land should be used for a school, the Government in this instance imposed a ground-rent upon the land. In the case of acquisition for a company the agreement to be entered into under section 41 provides for the transfer of the land to the company on their paying to the Government the cost of the acquisition.

7. When land is acquired under the Land Acquisition Act for a school under private management, it should be alienated in favour of the school subject to such conditions as it may be necessary to impose according to the circumstances of the case.

(G.O. Press No. 1514, Revenue, dated 3rd August 1927, and G.O. Mis. No. 380, Revenue, dated 20th February 1928.)

8. If a piece of land held under a deed of trust by a college board is acquired for a public purpose and another piece of land is granted in exchange as compensation, the land granted in exchange

should be alienated in favour of the college board subject to the stipulation that the land should be held subject to the terms contained in the original deed of trust.

(G.O. Mis. No. 1578, Revenue, dated 29th August 1922.)

Chapter XXI.—Reference to Court.

A reference may be made under the following circumstances:—

I. Under section 18 of the Act any person interested *may* apply for a reference to the civil court on any of the following grounds and the reference *must* then be made:—

(i) that the area of the land as stated in the award is not correct;
(ii) that the amount of compensation is not sufficient;
(iii) that it has been ordered to be paid to a wrong party; and
(iv) that it has not been correctly apportioned among the persons interested.

II. Under section 30, the Collector *may suo motu* make a reference, if there is a dispute concerning the apportionment of the compensation or any part of it, or concerning the person to whom the compensation, or any part of it, is payable. He should always do so when the questions involved in the dispute are too difficult to be satisfactorily decided by him.

III. Under section 31 (2) a reference *must* be made by the Collector to the court if there be no person competent to alienate the land.

IV. Under section 35 (3), the Collector *must* refer to the court disputes concerning the sufficiency of the compensation for lands occupied temporarily or concerning its apportionment.

V. Under section 37, when there is a difference between the Collector and the person interested concerning the condition of the land at the expiration of the term of temporary occupation, or concerning any matter connected with the agreement entered into under section 35 (2), the Collector *must* refer such difference for the decision of the court.

VI. Under section 48 when the Government withdraw from an acquisition the Collector must determine the amount of compensation due for damages if any suffered by the owner in consequence of the proceedings under the Act and must pay him the amount. If the owner is not satisfied with the amount, he *may* ask for a reference to the court and the reference *must* then be made by the Collector.

VII. Under section 49, the owner of a house, manufactory or other building may insist that the whole of such premises shall be

acquired and not only a part thereof. If any question arises whether any land proposed to be acquired does or does not form part of a house, manufactory or building, the Collector *must* refer the determination of such question to the court.

2. The application for a reference to the court under section 18 must always be in writing. It may be entertained even if it is sent by post, provided that the Collector is satisfied that it is the genuine petition of the applicant in whose name it purports to have been written. When a claimant failed to make a written application for reference, but merely mentioned his grounds of objection to the award and threatened to bring a suit, if the property was not released, it was held that this was not an application for reference (73 Indian Cases 127). A time-barred application for a reference to the court should be rejected. Even if the Collector makes a reference, the court should not entertain it (30 Bombay 275).

3. In calculating the period of limitation mentioned in the proviso to section 18, the time spent in obtaining a copy of the award is not to be excluded if the award was made in the presence of the claimant (11 I.C. 690). No extension of time can be allowed on the ground of the minority of the claimant (25 I.C. 448). No person who has accepted payment without protest is entitled to make an application under section 18 [see second proviso to section 31 (2)].

4. The Collector is bound to make a reference under section 18 if required to do so, and it is no part of his duty to decide whether the claim of the party is well founded or not. It has been decided, by a Full Bench, in 47 Madras 357 that the Land Acquisition Collector is not a court subordinate to the High Court and that the High Court has no power, under section 115, Civil Procedure Code, or section 107 of the Government of India Act, to revise the order of a Collector refusing to make a reference.

5. Only a person interested in the land can demand a reference. Neither the Government, nor the company, nor the local body, on whose application the land has been acquired, can demand a reference.

6. While it is necessary that the application for a reference should state the objection of the claimant, it is not necessary that he should state in detail the grounds upon which he claims a larger sum than that awarded by the Collector. Under section 25 (3) of the Act, it is open to the court to admit any claim which the applicant omitted for sufficient reasons to prefer before the Collector.

7. When a case is referred to the court by the Collector it is the duty of the Collector to furnish full instructions for the use of the Government Law officers concerning the conduct of the case in the court. The Government Pleader (or in Madras City the Government Solicitor) will invariably appear, under the instructions of the

District Collector, to represent the Government and the District Collector must see that the award of the acquiring officer is properly defended. The defence should be as carefully prepared as the defence in a civil suit against the Government, the responsibility of the District Collector being the same in both cases. If a local authority or company desires to exercise the rights given to it by section 50 (2) of the Act to appear and adduce evidence for the purpose of determining the amount of compensation, it is at liberty to do so through the agency of its legal representative; but, as neither the local authority nor the company is actually a party in the proceedings, the appearance of its legal representative for the purpose specified in section 50 (2) of the Act cannot replace the appearance of the Law officers of the Government to adduce evidence and argue the case on behalf of the Government. It happens not infrequently that references to the court concerning compensation are decided against the Government for want of proper instructions in the conduct of the case. The burden of proof is, ordinarily, on the claimant in the court to prove that the valuation made by the Collector is insufficient; but the burden will vary according to the nature of the enquiry made by the Collector. If no evidence has been taken by the Collector, and if no reasons have been given in his decision to support his conclusion, the claimant has a very light burden to discharge (34 Calcutta 599). The *ipsi dixit* of a Collector has very little if any weight and is not *prima facie* evidence of the correctness of his award.

Scale of fees in land acquisition cases.

The latest rules are extracted below :—

The fee shall be 4 per cent on the amount claimed in excess of the award subject to a maximum of Rs. 500. As between rival claimants in a land acquisition case the fee shall be calculated as prescribed for suits under rule 31 (*b*), viz.—

(1) If the amount or value of the claim does not exceed Rs. 1,000—

(*a*) if of a small cause nature at 5 per cent subject to a minimum of Rs. 5, and

(*b*) in other cases at 5 per cent subject to the following minimum:

(i) Rs. 10 if the suit falls under clauses (i) to (iii) of section 7, Court Fees Act, or under clause (iv), sub-clause (*f*), of that section, and

(ii) Rs. 25 in other cases.

(2) If the amount or value exceeds Rs. 1,000 but does not exceed Rs. 5,000 at 5 per cent.

(3) If the amount or value exceeds Rs. 5,000 but does not exceed Rs. 20,000, on Rs. 5,000 as above and on the remainder at 3 per cent.

(4) If the amount or value exceeds Rs. 20,000 but does not exceed Rs. 1,00,000, on Rs. 20,000 as above and on the remainder at $1\frac{1}{2}$ per cent.

(5) If the amount or value exceeds Rs. 1,00,000, on Rs. 1,00,000 as above and on the remainder at $\frac{3}{4}$ per cent.

(6) In batches of more than ten suits which are tried together and disposed of by a common judgment the fees shall be at the discretion of the court, but not exceeding the fees prescribed above. The minimum prescribed in clause (1) above shall not apply.

(Vide notification at pages 1496–1498 of Part II of the *Fort St. George Gazette*, dated 25th October 1927.)

8. When making a reference to the court under sections 19, 30 or 31 (2) of the Land Acquisition Act, the following points should be borne in mind.

Civil courts require that each reference should be self-contained and complete with all the relevant papers in the file and all the facts of the case referred for the court's decision clearly and fully set forth. It is essential that a separate reference should be made in the annexed form for each item of the award, with a covering letter to the court. Each reference should be signed by the referring officer himself as required by clause (i) of section 19 of the Act. The number and date of the award, and also the number of the item thereof forming the subject of the reference should be quoted. The date on which possession of the land was taken under the Act should be given. The persons interested should be fully and clearly described and their postal addresses given, and, in the case of minors, their ages and the names and addresses of their guardians should be specified. The schedule of information prescribed by clause (2) of section 19 of the Act should be annexed. A true extract of the award in the standardized form (Appendix XII, form 8), as also an extract of the award proceedings relating to the item referred to the court, should invariably accompany the reference. In the case of references concerning claims under sections 18 and 30 of the Act the contentions of the parties should be fully and clearly stated, and all documents filed by the parties in support of their claims should be forwarded to the court if they have not been returned to the parties before making the reference, together with a discussion of the contentions of the parties.

In the case of references under section 19 of the Act, if payment has been made to the awardees, the date and manner of such payment and the person to whom it was made should be stated. If the amount of the compensation has not been disbursed, the amount should be drawn in a 'C' form cheque and sent along with a 'D' form receipt in triplicate as required by rule 8 of Appendix XIX of the Madras Financial and Account Code, Volume II. If the amount has been placed in revenue deposit owing to the non-attendance of parties to receive the compensation awarded, a deposit repayment voucher should be prepared in place of the 'C' form cheque and it should be duly signed and sent along with a 'D' form receipt in triplicate. The reference is not complete and it

will not be taken on the file of the court unless the amount is sent to the court along with the reference or details as to the disbursement of the compensation awarded are furnished.

Copies of references under section 19 of the Act should invariably be sent to the Collector of the district to enable that officer to supervise and watch the proceedings in the court. All acquiring officers should therefore prepare three copies of every reference under section 19 of the Act in accordance with the instructions in paragraphs 1 and 2 above, one for the court, one for the Government Pleader and the third for the use of the District Collector. The original statements and petitions of the parties should be attached to the copy of the reference intended for the court, and copies thereof should be attached to the duplicate and triplicate copies of the reference. The sets intended for the Government Pleader and the District Collector should be accompanied by a covering letter stating whether the application is or is not in time, and noting therein the amount awarded by the Land Acquisition officer and the amount claimed by the parties at the time of the enquiry under section 9 of the Act and in any subsequent statement at the stage when under section 18 of the Act a reference to the court was demanded. The covering letter should also contain any supplementary instructions necessary for the defence of the award in the individual case in question, stressing any specially relevant portions of the award proceedings, augmenting them where necessary, and pointing out instances in which similar awards were accepted without protest by other awardees.

In the case of references under section 30 of the Act no copy of the reference need be sent either to the District Collector or to the Government Pleader, as the interests of the Government are not involved. It will suffice if the amount deposited in court is shown in the Audit Account statement in the form prescribed in G.O. Mis. No. 892, Finance Department, dated 20th December 1927. In the reference to the court a summary of the contentions of the parties should be given and true copies only of all the statements and petitions filed by the parties need be sent to the court. The reasons for the reference and the nature of the deposits made should be stated in the form annexed as indicated in sub-paragraph 2 above. A 'C' form cheque and a 'D' form receipt in triplicate should also accompany the reference.

When the compensation awarded for unenfranchised service inam lands is deposited in court under section 31 (2) of the Act on account of the inability of the inamdars or trustees of the institution to alienate the land, the District Collector must be included as an interested party as he is responsible for taking action in accordance with the orders passed by the court under section 32

of the Act. The reference should be made to the court direct, a copy of the reference being sent to the District Collector for information, and the Government Pleader should be instructed on receipt of the court's notice merely to attend and watch the proceedings and to report the result in due course to the District Collector. The work of the Government Pleader in such cases is treated as petty miscellaneous legal business for which no fees should be claimed under Board's Standing Order 97 (2)."

Form of Reference to Court.

In the Court of the District/Subordinate Judge of

Reference made under section of Act I of 1894.

By whom referred (name and designation of the referring officers.)

Village. Taluk

Number and date of reference.

Serial number of ward No. dated

Particulars of land acquired.			Particulars of trees, buildings, wells, etc.	Particulars of compensation awarded under section 11.	Date of possession under the Act.
S.F. No.	Nature.	Extent.			
		ACS.			
	Dry or wet; inam or Government.	...	...	Land value. Damages. 15 per cent allowance. Interest.	

Nature of persons interested. Description and address.

Reasons for reference.

Schedule of information under clause (2) of section 19.

Signature and designation
of the referring officer.

9. In passing his award the Collector no doubt acts only as the agent of the Government and is not bound to base his decision on strict legal evidence. But when he makes a reference to the court, he must be able to justify his award on evidence which will be acceptable in the court. For this purpose he must in the course of his enquiry accumulate evidence which may be put on a legal basis when the time comes for defending his award. In the court, sale-deeds and other documents must be legally proved and proper oral evidence must be let in. If the acquiring officer or other Revenue officer has inspected the land and has compared it with other

lands the sale-deeds for which have been considered in making the award, his oral evidence in court will be valuable. A proper plan of the land acquired and of other lands in the vicinity the sale-deeds for which were considered when making the award should be put in as evidence. When it is considered that an inspection of the land will help the court in deciding the claim of the claimant, the court should be moved to make a personal inspection. Extravagant claims are often put forward that agricultural lands should be valued as building sites, when a personal inspection will expose the extravagance and the hollowness of the claims.

10. If a reference is made on the question of apportionment, whether at the instance of the party or *suo motu* by the Collector, the *whole* amount of the compensation should be deposited in court. A portion of it should not be paid to a party who is satisfied with the Collector's apportionment. If such a part-payment is made and the court afterwards holds that more than the amount allowed by the Collector is payable to the party aggrieved by the Collector's apportionment, the money required to satisfy the court's order will not be available and may have to be made good by the acquiring officer.

11. There are two restrictions placed on the jurisdiction of the court over the whole question of the amount of compensation—

(1) Under section 21, the scope of the enquiry in the court is restricted to the consideration of the interests of the persons affected by the objection. All that the court can deal with is the objection which has been referred to it. It cannot go into a question raised for the first time before it by a party who has not under section 18 obtained the reference of any question to it.

(34 Calcutta 451.)

In a reference relating to a dispute regarding apportionment between A and B, it was held that the judge was wrong in allowing C and D to be added as parties on their own applications and to contest the award on a ground not raised in the reference. The question is dealt with further in Chapter XXII below.

(2) Under section 25, the amount awarded by the court shall not exceed the amount claimed by the applicant, or be less than the amount awarded by the Collector under section 11. When the party refuses to make a claim or has omitted without sufficient reason to make a claim before the Collector, the amount awarded by the court should not exceed the amount awarded by the Collector. When the omission to make a claim is held by the court to have been due to a sufficient cause, the amount to be awarded by the court should not be less than and may exceed the amount awarded by the Collector.

Part III, Chapter XXII.—Insert the following as the second sub-paragraph of paragraph 2 :—

When land on the security of which a loan has been granted by the Government under the Loans Acts, or a portion thereof is acquired for a public purpose, the owner of the land (the mortgagor) should be allowed to elect whether the amount of the award should be credited towards the liquidation of the loan or whether he will furnish such additional security as may be equivalent in value to the land taken up in case the value of the unacquired portion of the land is not sufficient security for the amount of the loan still due from him. In either case a new loan order should be issued and a fresh security bond should be taken from him excluding the portion of the land to be acquired and including the additional security, if any, furnished by him. This should be done before the draft declaration under section 6 of the Act is published.

[XXI list, 14-11-31]

12. The court has the right, and is bound, to decide the total amount due to the claimant for the compensation and the amounts due under each of the items making up the total amount. Nothing in the Act places any restriction on its power to award a less sum under any one item than that awarded by the Collector, but it cannot award a total amount of compensation which is less than that awarded by the Collector.

13. When an objection dealt with in the reference under section 18 relates to one of the headings mentioned in that section, the claimant cannot attack the award in court by making an objection relating to some other heading mentioned in that section.

CHAPTER XXII.—APPORTIONMENT OF COMPENSATION.

When passing an award under section 11 of the Act the Collector has to apportion the compensation among all the persons known or believed to be interested in the land of whom or of whose claims he has information, whether or not they have respectively appeared before him. When the several persons interested agree concerning the apportionment, no difficulty arises. If they do not agree, the Collector has to hold a summary enquiry and come to some decision concerning the apportionment. When the apportionment is made under section 11, any party dissatisfied with it may ask for a reference to the court under section 18 and the Collector must make it. If the Collector cannot decide the dispute concerning the apportionment, he must state the fact in the award and *suo motu* make a reference under section 30. When he makes the reference the limitation imposed by section 18 (2) does not affect him; but he should make the reference to the court as promptly as possible.

2. When land subject to a mortgage is acquired and the mortgagor and the mortgagee come to an agreement as to the apportionment of the compensation between them the compensation may be paid in accordance with the terms of the agreement. When there is no such agreement the Collector should not make payment to either of them but should refer the dispute to the decision of the court under section 30 of the Act. This procedure should be adopted whether the mortgage is simple or with possession.

3. When the different claimants appear before the Collector, it is his duty to make an apportionment of the amount among them or to make a reference to the court under section 30. It is therefore irregular to pass an award in the joint names of the owners of a field merely because the owners are registered jointly as such in the revenue accounts. Such an award is legally incomplete and leads to possible complications, e.g., in disbursing the amount of the compensation after it has been placed in revenue deposit or in making

a reference to the court under section 18 on a subsequent application for enhanced compensation by one of the joint awardees. In a recent case the Collector in order to avoid the trouble of apportioning the compensation had recourse to the device of passing the award in the name of a single claimant and arranging with him to pay some agreed amount to the other claimants who were induced to withdraw their claims. Such a method of disposing of the claims of parties in secret without bringing their cases into the record is entirely irregular and of course facilitates fraud. The Collector should have asked the other claimants to file withdrawal petitions in writing and should have kept them on record as part of his award proceedings.

4. In a certain case in which the Collector made a reference concerning apportionment, the Calcutta High Court held that it was not open to the court to allow new parties who had not asked for a reference to be added as parties on their application to the court. A contrary view was however taken in 25 Allahabad, 133. When, under section 30, the Collector has referred to the District Judge a dispute concerning the apportionment of compensation settled under section 11, it was held that it was not *ultra vires* of the District Judge to add a party to the proceedings before him, having regard to section 53 of the Act and section 32, Civil Procedure Code. The Allahabad view is in accord with the observations of the Privy Council in the case reported in 24 Bombay Law Reporter, 963. Their Lordships observe that "after the Collector deposits the money in court under section 31 (2), the relative rights of the persons together entitled to the award are the subject of litigation in the ordinary way. From the moment when the sum has been deposited in Court under section 31 (2) the function of the award has ceased and all that is left is a dispute between interested people as to the extent of their interests. Such dispute forms no part of the award." This decision of the Privy Council makes it clear that the litigation in court concerning apportionment which is fought out between the interested parties has nothing to do with the proceedings under the Land Acquisition Act.

5. This Privy Council decision has also set at rest the question whether a decision, concerning apportionment by a Land Acquisition Court, involving a pronouncement upon the respective titles of the parties, operates as *res judicata* in a subsequent civil suit between the same parties concerning other properties held under the same title. The earlier view of the Madras and Calcutta High Courts was that it did not operate as *res judicata*. (20 Madras, 269 and 34 Calcutta, 466). The Privy Council decision has however laid down that the former decision operates as *res judicata* and, that it is not

open to the court in the case of the same question arising between the parties to review a previous decision no longer open to appeal given by another court having jurisdiction to try the case.

6. The rule concerning apportionment is laid down in 42 Madras, 646. The land must be valued in the first instance including all interests in it and the amount so arrived at must be apportioned among the parties interested according to the value of their respective interests.

7. The method of valuing ryoti land in an estate and apportioning the value between landholder and ryot has been dealt with in Chapter XVII.

Chapter XXIII.—Payment of Compensation.

Under section 31 (1) of the Act the Collector must tender payment of the compensation awarded by him under section 11 to the persons interested according to the award and must pay it to them. The rules for payment of compensation are to be found in Appendix 19 of Volume II of the Madras Financial and Account Code and are reprinted as Appendix II to this Manual. Rule 6 lays down that the acquiring officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong in order that the number of undisbursed sums to be placed in revenue deposit on account of the failure of parties to attend to receive payment may be reduced to a minimum. Such payments may be in cash or by an order on the Treasury. Rule 14 provides that the Collector may draw on his own receipt as an advance the total amount to be disbursed by him according to the award and after making payments to the parties, forward the receipts (in Form C or CC) of the payees to the Treasury Officer in adjustment of the advance. If such cash payments are not made, he should countersign the receipt in Form C and make it payable at the Treasury to the payee, altering the words 'Paid in my presence' into 'Pay.' The Treasury Officer will then make the payment on the authority of this order.

2. It will be convenient for the awardees who appear before the Collector on the date of the award, if the amounts awarded to them are paid at once in cash. To give them the C Form and ask them to go to the Treasury which may be at some distance may cause inconvenience to them. But in the case of acquisitions which involve the disbursement of large sums of money it is desirable to issue orders for payment on the Treasury instead of making payments in cash. Special Officers employed for land acquisition should obtain the orders of the District Collectors concerning the method of payment to be adopted by them.

3. Section 31 (2) details the circumstances under which the Collector must deposit the amount of the compensation in court. Rule 8 of rules issued by the Government (Appendix II) lays down the procedure to be adopted in making the deposit. Even if a person is entitled to receive the compensation according to the award, a civil court may attach the amount before payment. In such a case the Collector should not pay it to the party but should keep it as a revenue deposit subject to the further orders of the court, and intimate the fact to the party.

CHAPTER XXIV.—COMPENSATION OTHERWISE THAN IN CASH.

Ordinarily all compensation under the Act is payable in cash and in every case the award should express the compensation in money. Paragraphs 23 to 29 of Board's Standing Order No. 90 detail the rules to be observed for settling compensation otherwise than in cash. These rules should be carefully observed by acquisition officers. As in no other portion of land acquisition work are mistakes so frequently committed by acquiring officers as in this, it is worth while to recapitulate the rules on the subject.

2. Compensation for ryotwari or zamindari land, for enfranchised inams and for unenfranchised personal inams should as a rule be paid only in money. Under section 31 (4) of the Act it is entirely optional on the part of the Collector to grant land in exchange in such cases; and the Government desire that the Collector should exercise this power only in exceptional cases. If the Collector decides to grant land in exchange, the grant of land should always be made on ryotwari tenure; and the District Collector should sanction the grant. If ryotwari land is held on patta by a religious or charitable institution, the Collector may in his discretion decide that it is a fit case for the grant of other land in exchange, provided that such land is at the disposal of the Government. If land is not, or cannot be granted in exchange for such land, the Collector should [under section 31 (2)] deposit in court the amount awarded. The court may then order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land acquired, and, till such purchase is effected, in the purchase of approved securities [section 32 (1)].

3. *Compensation for unenfranchised religious or charitable service inams.*—Two classes of cases have to be distinguished :—

(*a*) *Inams which, as inams, are over* 60 *years old at the time of acquisition.*—The kudivaram interest in the land has to be paid for in cash. The amount should be paid to the person enjoying the inam, if he is competent to alienate the land and receive the compensation. If he is not competent, the amount should, under

section 31 (2) be deposited in the court which will deal with the money as provided in section 32 (1). Not only must compensation be paid in cash for this kudivaram interest but also the assignment to the inamdar of the Government revenue on the land which constitutes the inam, must be continued to him. This is done by the payment of a beriz deduction or fixed remission equal in amount to the amount of Government revenue, guaranteed to the inamdar at the time of the settlement of the inam or, if it has not been settled, at the time of its creation.

(*b*) *Inams which are less than* 60 *years old at the time of their acquisition and unenfranchised village service and village artisan inams.*—If the Collector is satisfied that the original grant of the inam included both the land and the assessment, he should select a piece of land at the disposal of the Government, which is of the value of the sum awarded as compensation, and grant it to the inamdar on the same inam tenure. If there is no land at the disposal of the Government which he can so grant in exchange a procedure similar to that indicated in (*a*) above should ordinarily be followed, i.e., an annual payment of a beriz deduction or a grant of fixed remission equal in amount to the assessment foregone should be made and a single payment in cash for the kudivaram interest in the land should be made. But if the value of the land taken up is considerable, private land may be acquired and granted in exchange on inam tenure.

4. It is thus seen that, under the instructions of the Government, compensation by the grant of other land in exchange is obligatory only in the cases of unenfranchised religious and charitable service inams less than 60 years old and of unenfranchised village service and artisan inams, if it is clear that the land and the assessment constitute the inam. In other cases such a grant is discretionary on the part of the Collector.

5. In the matter of the payment of compensation otherwise than in cash section 31 of the Act distinguishes between a person having a limited interest in the land acquired and a person competent to contract in respect of the land acquired. In the former case, the sanction of the Local Government is necessary under section 31 (3), while in the latter case under section 31 (4) the Collector may himself enter into any arrangement for payment of the compensation otherwise than in cash. In the former case the Collector is not competent to sanction the arrangement himself, but should submit his proposal to the Government through the Board of Revenue in the form prescribed. In the latter case although the Act gives a wide power to the Collector, the Government have restricted it by laying down that their sanction is necessary in cases in which the land granted in exchange is to be held on inam tenure

or in which the compensation is to take the form of an annual payment of a beriz deduction or the grant of a fixed remission equal in amount to the assessment payable on the land taken up. If the Collector decides to grant land in exchange on ryotwari tenure, he must obtain the sanction of the District Collector.

6. Acquiring officers should be careful not to order in their award the grant of land in exchange. Where the circumstances of the case are such as to render the grant of land in exchange necessary or desirable, they should submit proposals to that effect to the Collector of the district separately. Except in the following two cases, the grant should always be on ryotwari tenure. In the case of unenfranchised religious and charitable inams which are less than 60 years old and in the case of unenfranchised village service and artisan inams, if it is clear that the land and the assessment constitute the inam, the land granted in exchange will be held on the same inam tenure. But it is the Government who should make the actual grant in such cases.

Chapter XXV.—When a Claimant may file a regular Civil Suit.

It may happen that the compensation awarded under the Act is not paid to the person lawfully entitled to it. The person aggrieved in such a case has however a remedy under the Act.

2. If he represented his claims to the Collector and the compensation was neverthless not awarded to him, or was not properly apportioned, he may ask for a reference to the court within the time prescribed under section 18 (2). If on doing so, he failed to establish his claim in the court, he cannot again reopen the question by a suit in the civil court. In 7 Calcutta, 388, Their Lordships of the Privy Council observed :—" The third proviso to section 31 (2) applies only to persons whose rights have not been adjudicated upon and it has not the effect, which it would certainly not be reasonable to attribute to it, of permitting a person, whose claim has been adjudicated upon in the manner pointed out by the Act to have that claim reopened and again heard in another suit . . . It is necessary for the Government or a company, entitled to take property compulsorily, to deal with those who are in possession or ostensibly the owners ; but it may happen, and frequently does happen, that the real owners, possibly being infants or persons under disability, do not appear and are not dealt with in first instance and therefore a provision of this sort is necessary for enabling parties who have a real title to obtain the compensation money. "

3. It thus appears that persons, who are not parties in land acquisition proceedings are not debarred from instituting suits for

apportionment in a civil court. In the case of persons who represented their claims before the Collector but did not seek a reference to the court under section 18, the Calcutta High Court extended the Privy Council decision above referred to and held that in such a case as there had been no adjudication of the rights of the claimants *inter se*, a claimant who appeared before the Collector when the award was made, but yet did not apply for a reference under section 18, could maintain a civil suit against any person who might have received the whole or part of the compensation awarded. This decision was dissented from in a later decision of the Calcutta High Court and it was held that a person, under the above circumstances, had no right of suit in the ordinary civil courts. The claimant's remedy when dissatisfied with the Collector's award is to apply for a reference under section 18. "The Land Acquisition Act creates a special jurisdiction and provides a special remedy. And ordinarily when jurisdiction has been conferred upon a special court for the investigation of matters which may possibly be in controversy, such jurisdiction is exclusive and the ordinary jurisdiction of the civil court is ousted." This later decision represents the correct view of the matter.

4. The position therefore is as follows. If a person interested in the land acquired has any objection to the measurements made by the Collector or to the amount of compensation awarded by him, he *must* obtain a reference to the court and cannot litigate the matter by a suit in the ordinary courts. Even if the objection relates to the *locus standi* of a claimant or to a question of apportionment amongst the different claimants, the matter must be investigated only upon a reference to the court if the claimant was served with a notice under section 9. When, after a reference has been made to the court, the proceedings are dismissed for want of prosecution without adjudication on the merits, a suit is not maintainable for the trial of the question involved in the reference. If the real owner was not served with a notice under section 9, or if being an infant or labouring under a legal disability, he did not appear and make his claim before the Collector, he may then institute a civil suit against the persons who took payment of the compensation due to him.

5. When the question of title or apportionment is referred to the court under section 18 or section 30 the whole amount of the compensation must be deposited in the court by the Collector. If he fails to do so and makes payment to the wrong party before the reference to the court has been made, the Government will be liable to pay the amount to the party whom the court adjudicates to be entitled to it. It will not be open to the Government to urge that, under the third proviso to section 31 (2), the party entitled to the

amount should file a suit to recover it from the person to whom it was wrongfully paid by the Collector. The Government must find the money to satisfy the order of the court concerning apportionment and afterwards themselves file a suit to recover the money from the person to whom a wrong payment has been made. It will be different if the person entitled to compensation comes by way of a suit to a civil court. Government will not be a party to it and the suit will lie only against the person who took wrongful payment. In such a case the third proviso to section 31 (2) will come into operation. Costs awarded in such a suit can, in no event, be recovered from the Government.

CHAPTER XXVI.—PAYMENT OF INTEREST ON THE COMPENSATION AWARDED.

Section 34 of the Act lays down that when the amount of compensation is not paid or deposited in the court on or before taking possession of the land the Collector shall pay the amount awarded with interest thereon at the rate of 6 per cent per annum from the time of taking possession until it shall have been paid or deposited. Although under section 16 possession may be taken as soon as the award has been passed, ordinarily the Collector should not take possession until the compensation has been paid or the amount has been deposited in the court.

2. Under the Act possession may be taken before the compensation is paid or deposited if the provisions of section 17 (1) or (2) have been applied. In this case the payment of interest is unavoidable. It is therefore incumbent on the Collector to complete the enquiry and pass the award under section 11 as soon as possible. All correspondence in connexion with the acquisition should in such a case be marked 'Urgent—Interest on the cost of acquisition is running.' The interest awarded should be included in the award passed under section 11.

In cases in which no compensation in money is paid but it is proposed to compensate the owner by the grant of other land or in some other way as is contemplated in section 31 (3) and (4) of the Act, there is usually an interval of time between the date of taking possession and the date when the land is granted in exchange. In such cases, a stipulation should be made in any agreement under section 31 (3) that interest shall not be claimed under section 34 unless there has been undue delay for which Government are to blame in the grant of the compensation agreed upon under section 31 (3).

3. Independently of the Land Acquisition Act it may become necessary to take possession of a piece of land in order to save life or property or to enter upon the land for one of the purposes

mentioned in section 4 (2) of the Land Acquisition Act before the issue of a notification under section 4 (1). The officer entering upon the land should record a statement from the owner agreeing to his entry. When he takes possession he should if possible obtain a further statement that the owner will not claim interest from the date of taking possession. In such cases, the interest, if any, on the amount of compensation should be paid independently of the award and should not be included in it, as such entry is not in accordance with section 16 or section 17 (1) of the Land Acquisition Act.

CHAPTER XXVII.—TEMPORARY OCCUPATION OF LAND.

Steps may be taken under the Act to procure the temporary occupation of land either for a public purpose or for a company, if it is required for a period not exceeding three years. If the land is required for more than three years, it must be permanently acquired. If at the end of the three years, it is found that the land is required for temporary occupation for a further period and the owner has no objection, the occupation may continue on terms agreed upon between the owner and the Government. Only waste or arable land can be acquired for such temporary occupation; buildings cannot be so acquired. No notification under section 4 (1) or section 6 need be published. A direction of the Local Government to procure the use and occupation of the land is all that is necessary. On the receipt of such a direction the Collector should issue written notices to the persons interested that it is proposed to use the land for the particular purpose for which it is required and should give them a hearing regarding the question of the amount of compensation. No award need be passed under section 11. The amount of compensation should be settled by mutual written agreement between the Collector and the persons interested. The solatium of 15 per cent of the value of the concession acquired is not to be paid. The most convenient arrangement for temporary occupation is usually on lease. If the owners demand a higher compensation than the Collector is prepared to allow, and if no agreement can be arrived at, the Collector should refer the dispute for the decision of the court. No application by the person interested demanding a reference is necessary.

CHAPTER XXVIII.—ACQUISITION FOR COMPANIES.

Land may be acquired for a company when it is needed for the construction of some work which is likely to prove useful to the public. As in the case of ordinary acquisition under Part II of the Act, the proceedings must be initiated by the issue of a notification under section 4 (1) followed by an enquiry under section 5-A. In this enquiry it will be open to the objector to urge, (1) that the

work is not likely to be useful to the public, (2) that the particular land notified is not the best adapted to the purpose intended, or (3) that its area is greater than is actually required for the purpose. Usually the same officer authorized to perform the functions of a Collector under section 5-A of the Act is also empowered to make the enquiry under section 40 (2) and two separate enquiries need not be held under these sections. It is only in urgent cases in which the enquiry under section 5-A is dispensed with that enquiry under section 40 (2) will be obligatory. On considering the report of the Collector and satisfying themselves on the points noted above, the Local Government should call upon the company to enter into the agreement mentioned in section 41. Section 40 constitutes the Government who are the custodians of the public interests, the sole judge of the two facts mentioned therein, viz., whether the land is required for the construction of some work and whether that work is likely to prove useful to the public. The civil court is not competent to question the validity of the proceedings under this section; nor can it question the efficiency of the enquiry made by the Collector or his qualification for making it. The Government is the sole judge of these matters (30 Calcutta, 36).

2. Sections 43 and 44 remove the railway companies for which the Government is bound to provide land, from the purview of sections 38 to 42. Lands required for these railway companies, for which the Government is bound under an agreement to provide land, should be acquired under Part II of the Act and not under Part VII.

3. Any society may get the benefit of these sections if it is registered as a company under the Companies Act. An industrial concern, e.g., a factory, will not come under the word 'company' under the Act unless the proprietors register it as a company under the Companies Act. But a society registered under the Societies' Registration Act (21 of 1860) and a registered society within the meaning of the Co-operative Societies Act, 1912, are both companies within the meaning of the word 'company.'

Chapter XXIX.—Withdrawal from Acquisition.

Government are at liberty to withdraw from the acquisition of any land which does not come under the proviso to section 36 of the Act and of which possession has not been taken even though the award may have been actually passed. The withdrawal should be notified in the official gazette in the same manner as the original notification under section 4 or 6 of the Act was notified as the case may be.

2. In the following cases withdrawal is usually ordered :—

(1) If the amount of compensation to be paid prove to be much larger than that anticipated. This cannot be determined until the award has been fully framed and considered.

(2) If it is found that land notified to be acquired really belongs to the Government, i.e., if acquisition proceedings are superfluous.

(3) If the owner insists under section 49 (1) that the whole of his house or building or that the lands which on a reference made to the court is declared to form part of his house or building which is not required for the purpose of the acquisition should be acquired, and it is decided that the cost involved is too high. If the acquisition is for a local authority or company the Collector should in such a case consult it to enable it to decide whether to exclude the whole of such house or building.

(4) When there are grave defects in the award which cannot be cured, except by withdrawal from the acquisition.

(5) If, on a consideration of the objections raised in the course of the enquiry under section 5-A of the Act and the Collector's report thereon, the Government decide not to proceed with the acquisition.

When the area acquired or required is less than the area notified withdrawal is unnecessary provided the boundaries as notified hold good in respect of the reduced area.

3. Government may withdraw even after payment of the compensation provided that possession has not been taken. In such a case the amount already paid will have to be recovered by a civil suit, if it cannot be recovered by private arrangement.

4. It must be remembered that withdrawal entails a liability for the payment of compensation for any damage which the owner may have suffered in consequence of the notice to acquire or of any proceedings under the Act. If the owner is not satisfied with the amount of compensation for the damages awarded by the Collector, he may apply for a reference to the court and such reference must be made.

5. In a certain case land required for quarrying was entered upon under an agreement with the owner and in anticipation of the acquisition under the Act. After the publication of the draft declaration and the issue of notices under section 9 it was found that the land was very much more costly than it was originally

estimated to be. On a question being raised whether the Government could withdraw from the acquisition after paying the owner damages for the quarrying done on about an acre of the land, the Government adopted the view—

(1) that possession taken by the Government before the declaration under section 6 had been published was not possession taken under the Act and that Government could therefore withdraw from the acquisition;

(2) that the consent obtained from the owner on the assumption that the land would be acquired under the Act and compensation would be awarded amounted to a contract between the owner and the Collector as the Agent of the Government that the land would be purchased by the Government; and

(3) that the contract was not a concluded contract as the sale price had not been fixed and there was no provision under the Act by which the owner could compel the fixing of the price.

CHAPTER XXX.—DUTIES OF THE DISTRICT COLLECTOR.

Throughout the land acquisition proceedings the District Collector must exercise an efficient executive control over the work of the acquiring officer. Board's Standing Order No. 90 (16) details the ways in which he should exercise this control in respect of the awards to be passed by the acquiring officers. The District Collector's control and responsibility do not cease when there is a special officer for the acquisition. He should carefully scrutinize the special officer's awards and see that they are based on proper data and are not excessive. His responsibility is the same whether the funds for the acquisition are provided by a department of Government, by a local body, or by a company. Even when the acquisition is on behalf of a railway company the instructions laid down in Board's Standing Order No. 90 (16) should be fully observed. Rule 4 of Section 1 of the Revised Land Acquisition Rules for railways printed in G.O. No 1959, Revenue, dated 14th August 1920, provides that the procedure to be followed in the case of an acquisition for railways should be in conformity with the instructions prescribed by each Local Government. The District Collector must therefore in such a case exercise the powers vested in him under Board's Standing Order No. 90 (15) and maintain full executive control over the work of the acquiring officer.

2. The District Collector has also other functions to discharge. Under section 5 he has to hear disputes regarding the sufficiency of the amount paid or tendered for damages under section 4 (2), and his decision in the matter is final. He cannot delegate his powers to any other officer, not even to a Collector appointed under the Act.

3. Under Board's Standing Order No. 90 (23) (vii) proposals for the settlement of compensation otherwise than in cash may be made by the acquiring officer, but the terms of such settlement are subject to approval and revision by the District Collector. The Government, however, are the final authority to sanction the proposals except when the settlement is to be made with a person competent to contract in respect of the land acquired *and* the Collector decides to grant in exchange land on ryotwari tenure.

4. The District Collector is responsible for the proper supervision and control of all proceedings arising in the civil courts out of action taken under the Land Acquisition Act. He should personally watch the progress of all such proceedings and if it is found that any are not conducted properly by the Government Pleader, he should draw the Government Pleader's attention to the neglect. Instances of badly conducted cases should be reported by the District Collector to Government (G.O. Mis. No. 2033, dated 26th November 1926). On receipt of copies of judgments and decrees, they should be promptly scrutinized by the District Collector, and steps should be taken to get them amended if this is necessary (e.g., if 15 per cent has wrongly been allowed by the court on compensation for damages): and prompt arrangements should be made for the deposit in court of any excess compensation which may have been decreed so as to reduce the interest charges to a minimum. Prompt steps should also be taken for the recovery of any costs which may have been allowed—if necessary by resort to execution proceedings through the agency of the court.

CHAPTER XXXI.—ACQUISITION FOR RAILWAYS.

The acquisition of lands for the railways is governed by the orders in Board's Standing Order Nos. 90 and 91 and the Revised Land Acquisition Rules which have been issued by the Government of India. The rules issued by the Secretary of State in 1925 to regulate the transfer of State lands and buildings between the Government of India and the Local Government modify the rules promulgated in Railway Board's Resolution No. 412-F/18, dated 15th May 1919, in so far as the latter are inconsistent with the former. This necessarily means a modification of rule 73 of the Land Acquisition Rules. The Revised Land Acquisition Rules, the rules issued by the Secretary of State and the Resolution of the Railway Board, dated 15th May 1919, are printed in the appendix.

2. The procedure to be followed in acquiring the lands is mainly the same as in the case of ordinary acquisition under Part II of the Act. A notification under section 4 of the Act need not be published when preliminary surveys only have to be carried out by the

railways. No notification under section 4 of the Act should therefore be sent up for publication until the alignment has been decided on and the land actually required can be more or less precisely specified. If the Government are satisfied that in the circumstances of the case the acquisition is urgent, they will at the time of the publication of the notification under section 4 of the Act dispense with the enquiry under section 5-A in respect of the waste and arable lands. The provisions of section 17 (4) of the Act will not ordinarily be applied at any later stage.

3. The cost of the land acquired should be debited to the Government of India or the Capital account of the railway according as the railway is entitled to receive land free of cost or not. An abstract of the orders relating to such adjustment is given in the appendix. According to the orders of the Government of India the capitalized value of the abatement of the existing land revenue should not in future be debited to the Capital account of the railway or the Government of India.

4. Under rule 24 of the Revised Land Acquisition Rules the land acquisition officer has to consult the railway administration if the awards are likely to exceed the original estimate of the cost of acquisition by more than 10 per cent or Rs. 10,000. If the award as finally settled after objections have been heard in the course of the proceedings exceeds by more than 20 per cent the original estimate of the cost of the acquisition or if the evidence as to the value is conflicting and such as to indicate a reasonable probability that the civil court will award a sum exceeding that estimate, the land acquisition officer should defer the award and inform the railway administration concerned of the facts. But such consultation with the Railway authorities does not obviate the necessity of obtaining the previous approval of the Collector as required under Board's Standing Order No. 90 (16) for awards which are 10 per cent over the preliminary valuation or relieve the acquisition officer's responsibility for fixing the value of the land at a reasonable and fair amount in accordance with the instructions given in the Act and Board's Standing Order No. 90. In one case of acquisition, it was contended that, under the Revised Land Acquisition Rules, the Railway officers were finally responsible for the price paid for the land and that the acquisition officer was merely one deputed to act as their assistant or as an arbitrator between them and the claimants. But the Government held that this was not the position contemplated by the Land Acquisition Act and that it was the acquiring officer who was responsible for fixing the value of the land and that he was bound to fix it in accordance with the special instructions given in the Act and the rules.

(G.O. No. 1755, Revenue, dated 11th November 1925.)

CHAPTER XXXII.—PERSONS WHO ARE NOT COMPETENT TO ALIENATE.

Under proviso (iv) to section 3 (*g*) of the Act a person competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale is competent to receive the compensation. If there be no person competent to alienate the land, under section 31 (2) the Collector should deposit the amount of compensation in the Court to which a reference under section 18 would be submitted. Before the Collector makes payment of the compensation he should consider carefully whether the person in whose name the award has been passed is competent to alienate the land. This is not a simple matter to decide and the facts of each case must be considered on their merits. As personal law governs the bulk of the Indians (Hindus and Muhammadans), the provisions of the Hindu law and Muhammadan law will have to be applied; where these laws do not apply, Statute law will come into play.

2. *Under Hindu Law.*—(1) A Hindu male, if he does not form a member of a joint family, can alienate without restriction the immovable properties belonging to him.

(2) If he does form a member of a joint family, he can alienate his self-acquired property without any restriction.

(3) In the case of properties belonging to a joint family, the manager of the family can alienate the same for any purpose, provided the other co-parceners are majors and agree to the alienation; but unless all the members of the joint family who have put in claims in response to the notices issued by the acquiring officer in accordance with the provisions of the Act agree as to the apportionment of the amount of compensation, the acquiring officer should deposit the amount of the compensation in the Court.

(4) The manager acting alone and without the consent of the other co-parceners may alienate family property only for family necessity or for its benefit. The power of alienation possessed by the following classes of persons is similarly limited:—

(*a*) a Hindu female in respect of property inherited by her,

(*b*) a widow managing property inherited by her minor son,

(*c*) the guardian of a minor's estate,

(*d*) the manager of a religious or charitable endowment, and

(*e*) the manager of the estate of a lunatic.

(5) A father is entitled to alienate the joint family property of himself and his sons to satisfy antecedent debts contracted by him for a purpose which is neither illegal nor immoral. In other respects he possesses the same power as the manager.

In cases (4) and (5), the compensation should invariably be deposited in court. In the case of property belonging to a tarwad to which the Marumakkatayam law applied, the Madras High Court held that the tarwad had power to alienate the land and that the compensation should be paid to the karnavan and should not be deposited in court.

(26 Madras, 287.)

(6) A Hindu woman is presumed to acquire only a limited estate in property howsoever obtained, whether by gift, demise or partition. She cannot alienate such property except for justifiable and necessary purposes. But if the property was acquired by her by virtue of a deed or demise conferring on her an absolute title, she has power to alienate the property so acquired. The compensation in such cases may be paid to her and need not be deposited in court. The mere fact that property stands in the name of a woman is not however enough to make her the absolute owner of it, as benami transactions are very common in India. In a case before the Privy Council their Lordships of the Privy Council observed "A purchase by an Indian husband of property in India in the name of his wife, unless otherwise explained is presumed to be a benami transaction by which the beneficial interest in the property is in the husband and the ostensible title in the wife. The rule of English law that such a purchase is assumed to be for the advancement of the wife does not apply in India."

(7) A Jain widow has absolute power of disposal over the self-acquired property of her husband inherited by her. Compensation may therefore be paid to her if such property is acquired from her.

3. *Under the Muhammadan Law.*—(1) Any Muhammadan, male or female, can alienate his or her properties. But in the case of a female, care should be taken to see that she is not a mere benamidar. If she is a benamidar, the compensation should not be paid to her but should be deposited in court.

(2) If the property is immovable and belongs to a minor, the legal guardian of the minor can alienate it under certain special circumstances only. The compensation for the land of a minor should therefore be deposited in court.

4. *Under Statute Law.*—Under section 307 of the Indian Succession Act (39 of 1925), an executor or administrator has power to dispose of the property of a deceased person vested in him under section 211 in such manner as he may think fit.

If the deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jain or an exempted person (as notified under section 3 (1) of the Indian Succession Act) this general power of alienation vested in the executor is subject to the following restrictions :—

(*a*) If no probate has been obtained he is subject to the restrictions on alienation imposed by the will appointing him ;

(*b*) If probate has been obtained, the court can order the executor to dispose of any immovable property in a manner permitted by the court notwithstanding any restrictions in the will. In this case the compensation awarded may be paid to the executor.

NOTE.—Probate is necessary for all wills executed within the City of Madras ; if probate is not taken an executor under the will cannot act.

(*c*) An Administrator cannot without previously obtaining the orders of the court which granted the letters of administration, alienate the properties vested in him. If he obtains the order of the court the compensation awarded may be paid to him.

5. *Under sections* 28 *and* 29 *of the Guardian and Wards Act*, 1890.—(1) If a guardian has been appointed by a will or other instrument, his power to alienate the property of the ward is subject to any restrictions which may have been imposed by the instrument. If no restrictions have been imposed, the compensation awarded may be paid to the guardian.

(2) If he has been declared to be a guardian under this Act, he may alienate the immovable property of the ward on obtaining an order from the court which made the declaration permitting him to do so. The compensation awarded may then be paid to him.

(3) If the guardian appointed by a will or other instrument containing a restriction on alienation wants to alienate the immovable property of the ward, he must get himself declared a guardian under the Act and then obtain the order of the court permitting the alienation. If the court makes the order the compensation may be paid to him.

6. The Official Assignee under the Presidency Town Insolvency Act, 1909, and the Official Receiver under the Provincial Insolvency Act, 1920, are competent to alienate all or any part of the property of the insolvent or intestate vesting in them. The compensation awarded in the case of such property may be paid to the Official Assignee, or Official Receiver. In the case of an estate managed by a Receiver appointed by a court, the property is *in custodia legis* and the compensation awarded should be paid to the court which appointed the Receiver.

7. *Impartible estates.*—An estate is impartible if it is by law or custom incapable of division into one or more parts so as to confer upon the holders thereof rights equal to those possessed by the

holder of the undivided estate. But an impartible estate is not *ipso facto* inalienable. On the other hand the Privy Council has laid down the law to be that the holder of an impartible estate is its complete and absolute owner, competent to dispose of it in any manner he pleases either by deed or will. But the Madras Impartible Estates Act, 1904, has imposed restrictions on the alienation of an impartible estate by providing that the proprietor shall be incapable of alienating it or any part of it beyond his own lifetime, unless the alienation is for necessary and justifiable purposes. The proprietor of an impartible estate falling under the Madras Impartible Estates Act is expressly authorized to grant sites for public charitable and public religious institutions but cannot make any other alienation so as to confer an absolute title on the alienee. The compensation for the melwaram interest in land acquired in such an estate should not be paid to the proprietor but should be deposited in court, unless the acquisition is for a public charitable or public religious purpose. In the excepted case the compensation may be paid to him. The proprietors of impartible estates not falling under the Madras Impartible Estates Act have full powers of alienation. In their case the compensation for land acquired may be paid to them and need not be deposited in court.

Chapter XXXIII. – Correspondence regarding Land Acquisition.

The correspondence in the office of the Land Acquisition officer is divided into two stages of which the first ends with the report submitting the draft declaration under section 6 of the Act to the Government and the second begins with opening a fresh current as soon as the Government Order directing the publication of this notification is received. It is not desirable to close the file with an 'L' disposal at the time when the notification under section 4 (1) is submitted to the Government.

As soon as the Government Order directing the publication of the notification under section 6 is received, a fresh current should be opened and kept pending until the last stage of the land acquisition proceedings is reached. This current should not be closed till the case has been finally disposed of i.e., till the compensation has been paid or other lands have been granted in exchange and the procedure prescribed in paragraph 19 (ii) of Board Standing Order No. 90 concerning the record of transactions and corrections in the accounts, has been followed to end.

2. To every file of land acquisition papers should be attached a check memorandum, the form of which is given in the appendix. (B.P. No. 23, Revenue Settlement, Survey, Land Revenue and Agriculture, dated 4th February 1918.) It is designed to enable

acquisition officers to check the procedure involved in their work before its final disposal, specially in connexion with the subdivision of the portions of the fields acquired and the incorporation of the charges in the accounts.

3. Besides the clerk's personal register of papers in which all land acquisition papers must be entered, a special register of papers relating to land acquisition has been prescribed (vide Appendix XII from 19). This register should be maintained by all officers who do land acquisition work.

4. By a reference to this special register and to the clerk's personal register, inspecting officers will be able readily to detect delays in the work connected with land acquisition; similarly the land acquisition officer himself will be able to watch the progress of the work in his own office. No register, however, can ever replace the vigilant check which the Divisional officer should exercise over the execution of this work. It is the duty of the head of the office to punish a clerk who delays the checking of a draft declaration. A Tahsildar or Deputy Tahsildar who fails in similar circumstances to report a Revenue Inspector for punishment for undue delay on the Revenue Inspector's part, must expect himself to be punished for failing to check the delay and, if the case is one that he could have easily dealt with personally, he must expect the consequences to be serious. Similarly a Revenue Divisional Officer who does not punish the Revenue Inspector must expect himself to share the blame for the delay. Vigilance on the part of the Revenue Divisional Officer and the Tahsildar to prevent unnecessary delay or unnecessary references is essential. Both must keep in touch with all land acquisition papers and know exactly where the delay is and whether there is a sufficient reason for it. The moment they discover unjustifiable delay they must punish the subordinates responsible. (B.P. Mis. No. 404, dated 24th February 1925.)

5. It is not desirable to treat in the Collector's office the Revenue Divisional Officer's communication enclosing the notification under section 4 (1) as an "X" (i.e. unregistered) paper. According to paragraph 8 (1) of Board Standing Order No. 90 every department applying for land other than the Revenue Department has to make the application to the Revenue Divisional Officer and send a copy of it to the District Collector. The object of sending a copy of the application to the District Collector is to enable him to check delay on the part of the Revenue Divisional Officer in taking proceedings, especially in submitting the notification under section 4 (1), as it is very important that this notification should issue as early as possible. It is therefore necessary that the copy of the application for land received by the District Collector should be registered in the subject clerk's personal register and the receipt

of the draft notification duly watched for. On receipt the notification should be treated as an old case and put into the open current mentioned above. In the case of land required by the Revenue Department there should normally be an open file in the Collector's office awaiting the notification under section 4 (1).

Chapter XXXIV.—Miscellaneous.

The following documents received or furnished in the course of proceedings before the Collector are exempt from court fees :—

(1) Applications for compensation (Court Fees Act, Section 19 xxii).

(2) Awards or agreements and copies of them furnished to persons claiming under them. (Section 51 of the Land Acquisition Act.)

(3) Applications under section 18 of the Land Acquisition Act.

All other documents are chargeable with court fees.

2. A grant of land in exchange for land which has been acquired under the Act need not be registered as it is a Crown grant.

3. In all cases of acquisition in which it has been found necessary to appoint a special officer for the purpose, that officer should, as soon as the lands have been acquired, submit a completion report to the Government through the District Collector concerned and the Board of Revenue. The report should contain a general description of the operations and activities of the staff, details of the staff employed with particular reference to the period of employment and the Government Orders sanctioning their employment, the percentage of the cost of the staff to the cost of the acquisition, the procedure followed in valuing the land, the number of references to court, points of local or special interest, if any, items of work left outstanding by the special staff and arrangements made for the custody of the records connected with the acquisition.

PART IV

APPENDICES.

Page 143, *Appendix* XII, *Forms.*—*Add* the following as Form No. 22 under Appendix XII :—

(22. **Draft form of agreement under section 41 of the Land Acquisition Act.)**

[IV list, 10-10-29]

PART IV

APPENDICES.

APPENDIX I.—Rules framed under section 55 (1) of the Land Acquisition Act.

APPENDIX II.—Rules issued by the Government for the payment of compensation for the lands taken up under the Act.

APPENDIX III.—Revised Railway Land Acquisition Rules.

APPENDIX IV.—Rules issued by the Secretary of State for India in Council to regulate the transfer of State lands and buildings between the Government of India and the Local Government, and the orders of the Government of India thereon concerning their application to railway lands.

APPENDIX V.—Government of India Resolution concerning disposal of land which is no longer required for the public purpose for which it was acquired.

APPENDIX VI.—Rules for the demarcation of lands acquired for the Public Works Department.

APPENDIX VII.—Rules for the guidance of special officers engaged in the survey of lands acquired for railways.

APPENDIX VIII —Abstract of orders relating to the adjustment in accounts on account of acquisition or relinquishment of lands by the railway.

APPENDIX IX.—The Land Acquisition Mines Act, 1885.

APPENDIX X.—The Madras Town Planning Act VII of 1920 (Chapter VII).

APPENDIX XI.—The Railways Act, 1890 (Chapter III).

APPENDIX XII.—Forms—

1. Form of application for acquisition of land.
2. Form of notification to be issued under section 4 of Act I of 1894 as amended by Act XXXVIII of 1923 (with the urgency clause and directions dispensing with the enquiry under section 5-A of the Act for use when necessary).
3. Form of notice under section 5-A of the Act.
4. Form of preliminary valuation statement.
5. Form of draft declaration (with the urgency clause applied for use when necessary).
6. Form of notice under sections 9 (i) and 10 of the Act.
7. Do. under sections 9 (3) and 10 of the Act.
8. Form of award
9. Notice of award under section 12 (2) of the Act.
10. Notice to party to quit.
11. Form of letter from the land acquisition officer to the officer of the department concerned to receive possession of the land.
12. Statement of lands required to be temporarily occupied.
13. Return of lands acquired under the Act to be forwarded to the Registration department.
14. Statement of compensation in other forms than money.
15. Return of lands granted in exchange.
16. Schedule under section 19 (2) of the Act.
17. Forms of title-deeds to be issued to the purchasers of relinquished lands.
18. Application for the disposal under Board's Standing Order No. 90 (32) of Agricultural or pastoral lands.
19. Special register of papers relating to acquisition of land for public purposes.
20. Annual statement.
21. Land acquisition check memorandum.

APPENDIX I.

Rules framed under section 55 (1) of the Land Acquisition Act.

Rule 1.—Immediately after the publication of the notification under section 4 (1), the Collector shall issue a notice stating that the land is needed or is likely to be needed, as the case may be, for a public purpose and requiring all persons interested in the land to lodge before the Collector within 30 days after the issue of the notification, a statement in writing of their objections, if any, to the proposed acquisition. This notice should be published at convenient places in the said locality, and copies thereof fixed up in the offices of the Collector, the Tahsildar, and in the nearest police station.

Rule 2.—The statement of objections should mention how the objector is interested in the land.

Rule 3.—(*a*) If a statement of objections is filed by a person who is not interested in the land it shall be summarily rejected.

(*b*) If any objections are received from a person interested in the land and within the time prescribed in sub-section (1) of section 5-A, the Collector shall fix a date for hearing the objections and give notice thereof to the objector as well as to the department or company requiring the land, where such department is not the Revenue Department. Copies of the objections shall also be forwarded to such department or company. The department or company may file on or before the date fixed by the Collector a statement by way of answer to the objections and may also depute a representative to attend the enquiry.

(*c*) On the date fixed for enquiry or any other date to which the enquiry may be adjourned by the Collector, the Collector shall hear the objector or his pleader and the representative, if any, of the department or company and record any evidence that may be produced in support of the objections.

Rule 4.—On completion of his enquiry, the Collector shall submit the case for the decision of the Local Government through the Board of Revenue, in the manner provided in section 5-A (2) of the Land Acquisition Act.

Rule 5.—On a consideration of the objections and the Collector's report thereon, if Government decide that the land should be acquired, the declaration required under section 6 of the Act should be submitted by the Collector of the district or Collectors of the districts concerned to Government for approval and publication in the Official Gazette. If, on the other hand, Government decide to give up the acquisition, a notification under section 48 (1) withdrawing from such acquisition shall be published by them.

(G.O. No. 1851, Revenue, dated 21st December 1923, G.O. No. 196, Revenue, dated 6th February 1926 and G.O. No. 2173, Revenue, dated 1st November 1927.)

APPENDIX II.

RULES FOR THE PAYMENT OF COMPENSATION FOR LAND TAKEN UP UNDER THE LAND ACQUISITION ACT I OF 1894.

1. *Land Acquisition officers.*—After all preliminaries in respect to estimate, etc., that may be required under departmental rules in force for the time being, have been duly carried out, the land will be taken up under the Act either by the Collector or by some special officer who is placed at the disposal of the Public Works Department, and invested with the powers of a Collector under the Act; the procedure differs in the two cases.

2. *Procedure of Special officers appointed under the Act.*—Officers who are specially employed for this work being invested with the power of a Collector under the Act and placed at the disposal of the Public Works Department, are regarded as Public Works Disbursers, and are supplied with funds in the manner prescribed for the works outlay of Public Works officers, the expenditure being accounted for under the rules in the Madras Public Works Account Code. The following procedure shall be observed by such officers.

3. When an award is made under section 11 of the Act, the officer shall have a statement prepared in the appended form (marked A) showing the amounts payable to each person under the award, and shall on the day the award is made, forward a copy of the statement, signed by himself, to the Accountant-General with whom he is in account. *Before signing the copy, the officer should carefully satisfy himself that it correctly shows the amounts due under the award, and should himself enter the total of column (6) of the statement in words both in the original and copy. A subsidiary statement in Form AA giving particulars regarding the acceptance, by the persons concerned, of the amounts entered in column (6) of the award statement should also be furnished to the Accountant-General as soon as possible. If the subsidiary statement is not complete on the day that the award is made the necessary entries in column (7) of statement A will be made in the Accountant-General's office on the receipt of the statement in Form AA.

4. In cases where an award has been made by a court under section 26 of the Act, a second award statement should be prepared in the accompanying form (marked B) by the land acquisition officer as soon as the decision of the court is ascertained, and a copy thereof forwarded to the Accountant-General. On receipt of this statement, the Accountant-General will proceed to check the entries in columns (1) to (4) with the original award by the officer.

5. Any change in the apportionment of the officer's award made by a court under section 30 of the Act, should also similarly be communicated to the Accountant-General for the necessary corrections in the award statement. And if under section 31 (3) of the Act, it has been arranged to grant a compensation otherwise than in cash, the nature of such compensation should be clearly specified in the column of remarks in the award statement.

* In all cases in which lands are acquired for railway administrations copies of the awards as well as copies of the award statements in form A should be sent to the Chief Auditor of the railway concerned.

Page 147, *paragraph* 6, *note.*—*Substitute* the following *for* the existing first sub-paragraph and clause (i) thereunder :—

"There is no objection to the payment of the compensation by money order at the expense of the parties concerned if they apply for such form of payment and agree to bear the money order commission. In the case of petty payments not exceeding Rs. 50 in each separate case, if the payees do not appear on the day fixed for payment or apply for a reference to the civil court under section 18, the officer shall issue notices to them informing them that if they do not attend by a certain date the compensation awarded to them will be remitted by money order, the amount of the money order commission being deducted. The following rules must be observed in making payments by money order :—

(i) Payment by money order should be confined to inland money orders only."

[X list, 30-10-30]

6. In giving notice of the award under section 12 (2) and tendering payment under section 31 (1) to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date, to receive payment of the compensation awarded to them intimating also that no interest will be allowed to them if they fail to appear. If they do not appear, and do not apply for a reference to the civil court under section 18, the officer shall, after any further endeavour to secure their attendance that may seem desirable, cause the amounts due to be paid in the treasury as revenue deposits payable to the persons to whom they are respectively due, and vouched for in the accompanying form (marked E). The officer shall also give notice to the payees of such deposits, specifying the treasury in which the deposits have been made. In the Collector's accounts the amounts deposited in the treasury will at once be charged off as Public Works expenditure, and when the persons interested under the award ultimately claim payment the amounts will be paid to them in the same manner as ordinary revenue deposits. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong, in order that the number of undisbursed sums to be placed in deposit on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative, whether before or after deposit of the amount awarded, such representative must show legal authority for receiving the compensation on behalf of his principal.

NOTE.—In the case of petty payments if the payees do not appear on the day fixed for payment and do not apply for a reference to the civil court under section 18, the officer shall issue notices to them informing them that if they do not attend by a certain date the compensation awarded them will be remitted by money order, the amount of the money order fee being deducted. The following rules must be observed in making such payments by money order :—

(i) No sums exceeding Rs. 50 in each separate case may be paid by money order.

(ii) No compensation due on account of land which is owned jointly by the proprietors of a village or subdivision of a village may be paid by money order.

(iii) In each money order so issued, the purpose of the remittance should be briefly stated in the acknowledgment portion thereof in continuation of the printed entry " Received the sum specified above on ;" sufficient space being left below the manuscript entry thus made for the signature or thumb impression of the payee.

On receipt of the money order acknowledgment duly signed by the payee it should be attached to the usual receipt in form C in which the full amount of the compensation and the deduction made therefrom on account of the money order fee should be clearly shown ; the receipt will then be disposed of in the usual way. The Account department will accept such voucher with the money order acknowledgment as a valid receipt for the full amount entered therein.

(iv) For the words " paid in my presence $\frac{\text{by cash}}{\text{by cheque}}$" in form C, the words " paid by money order " shall be substituted.

The Accountant-General will accept, in the case of compensation paid by money order, a receipt for the amount entered in the award statement less the amount of the money order fee as a valid receipt for the full amount entered in the award statement.

7. In making direct payments to the persons interested under the award, the officer shall take the receipt of each person to whom money is paid on a separate voucher in the accompanying form (marked C), containing a reference to the item showing the amount due to that person in the statement prescribed in paragraph 3. In cases where payments are made to a number of persons under a single award, acquittance roll in form CC may be substituted for separate receipts in form C. The officer shall forward the separate receipts of the payees or the acquittance roll, as the case may be, to the Accountant-General with whom he is in account, when forwarding to him the account of the month in which the payments are made.

8. All payments into court for deposit under the Act should be made by means of cheques in favour of the presiding officer of the court, payable by order of the court to credit of civil court deposits. The cheques should be accompanied with receipts, in triplicate, in form D, duly filled up, of which one will be retained by the court for record, and the other two returned duly signed to the Collector, who will keep one copy and forward the other to the Accountant-General with the accounts of the month in which the payments are made. The amounts deposited in the court will be charged off as expenditure in the Public Works Accounts of the Collector and the ultimate payments to the persons interested under the award shall be arranged for by the court under the rules for the payment of civil court deposits.

9. When a court has awarded any compensation in excess of the officer's award, the further payment due, as entered in column 6 of the award statement in form B, should be made into the court by means of a cheque, and the procedure described in the preceding paragraph should be followed. Form D being used with the necessary changes to give full particulars of the order of the court.

10. Government may authorize any particular land acquisition officer to make all or any of his payments by cheques provided no inconvenience is caused thereby to the payees in consequence of the property being situated at a distance from the treasury.

11. *Payments under the Act after the Special officer is relieved of his special duties.*—In any case in which a reference is made to the civil court and the award of the court is not made till after the special officer has been relieved of his special duties, the further payments due under the award shall be made by the Collector, who will observe the same procedure as if the reference to the civil court had been made by himself, as prescribed in paragraphs 8 and 9 above.

12. *Procedure of Collector or other Civil officer not specially employed for land acquisition.*—When the land is taken up by the Collector or other civil officer, not specially employed for the work, such Collector or civil officer is not a Public Works disburser, but draws money for payment due under his award from the Civil Treasury. *Such Collector or civil officer shall, as soon as he makes the award, or as soon as he ascertains that an award has been made by the civil court, prepare a statement in form A or B or in both, as the case may be, showing the amounts due, and forward a copy thereof to the Accountant-General concerned in the manner prescribed in paragraphs 3 and 4. Additions and alterations in the award statement should also be communicated to the Accountant-General as prescribed in paragraph 5, and a subsidiary statement in form AA should, if necessary, be furnished as laid down in paragraph 3. The procedure laid down in paragraph 6 should also be observed by such Collector or civil officer.

13. In making the payments due under the award, the Collector shall take from each person to whom payment is made a receipt in form C, containing a reference to the particular entry in the award showing the amount due to the payee. In the case of payment to a number of persons under a single award, an acquittance roll may be substituted for separate receipts as laid down in paragraph 7. These receipts will be the Treasury Officer's vouchers for the payments, and shall be forwarded by him with the accounts

* In all cases in which lands are acquired for railway administration, copies of the awards as well as copies of the award statements in form A should be sent to the Chief Auditor of the Railway concerned.

of the month to the Accountant-General. For payments into civil courts the procedure laid down in paragraphs 8 and 9 should be observed.

14. The Treasury Officer has no concern with the award or with the award statement; he makes the payments on the authority of the Collector, or other officer assessing compensation. The Collector may either draw the amount to be disbursed to each payee separately, in which case he should countersign the receipt in Form C, and make it payable at the treasury to the payee, altering the words "Paid in my presence $\frac{\text{in cash}}{\text{by cheque}}$" to "Pay :" or he may draw the total amount to be disbursed by him under the award on his own receipt as an advance, and after making the payments forward the receipts of the payees to the Treasury Officer in adjustment of the advance. In the former case, an advice list of the forms passed for payment should be sent to the Treasury Officer who in turn should send weekly an advice of orders paid.

15. *Audit by Account Officers.*—Whether the payment is made by a special officer or by the Collector (or other Civil Officer) the audit of the Accountant-General shall consist in seeing that every payment is supported by a receipt in Form C, CC, D or E and that the amount paid on such receipt is the amount payable under the award, as shown in the statement of which he will have received copies under the preceding orders. The Accountant-General will also note in the last column of Form A the date on which possession is taken as reported to him by the Executive Engineer or other officer.

16. The Accountant-General will, as he receives the vouchers, fill in the entries in the appropriate columns of the award statements (Forms A and B); and as he receives the reports of possession he will fill in the entries in column 10 of the statement in Form A: when all the vouchers showing either payment to the payee or payment into the Court on deposit and reports of possession have been received, he will forward a copy of the completed statements in Forms A, AA, and B to the Board of Revenue. This will complete the audit of the Accountant-General; any other or further returns or reports from the officers who assess or pay compensation will be disposed of by the Board of Revenue without reference to the Accountant-General. See also Articles 586 to 588 of the Audit Code.

17. When the land is acquired for, and the cost is debitable to, any other department than the Public Works Department, the procedure will also be the same, the Account Officer who will audit the payments being substituted for the Accountant-General.

18. *Procedure when no money compensation is paid.*—In cases in which compensation is granted in the shape of either land in exchange or remission of revenue as provided in section 31 (3) of the Act, and the land is acquired for Government purposes, no adjustment of the value of the land given in exchange will be required, unless it is separately purchased by Government. If, however, the land is acquired for a body financially independent of Governments the value of the Government land given in exchange and the capitalized value of the abatement of land revenue should be charged against advances of funds (paragraph 20) made by that body.

19. *Investment of compensation money deposited in court.*—Investments under sections 32 and 33 of the Act of money deposited in court should be arranged for, in the case of purchase of Government securities, in communication between the court and the Deputy Controller of the Currency

concerned, and purchase of land should be effected under the court's orders through the Collector or other Revenue Authority of the Province. The Deputy Controller of the Currency will inform the court what sum should be remitted to enable him to make the investment, and this amount will be paid from the deposits in court.

20. *Audit, Adjustment and Recovery of payments on behalf of bodies financially independent of Government.*—In any case in which land is acquired for a municipality or other body financially independent of Government, the Collector or other officer who makes payments on account of the land acquired shall draw funds from the treasury and make payments in the manner laid down in these rules, using the forms prescribed and shall render his accounts to the Accountant-General. The municipality or other body will pay the estimated cost of the compensation to the credit of Government in advance * on such dates and in such instalments as the Local Government may direct, further payment of Government being required as soon as the Accountant-General reports that the payments made exceed the amount received in advance. The Accountant-General will deal with the accounts and payments as prescribed in these rules, debiting the payments against the advances received for the municipality or other body.

* These sums should be credited in the treasury accounts to a special deposit head under "Civil Deposits—Deposits for work done for public bodies or individuals," while any charges should be supported by the prescribed vouchers, unless these cannot be furnished at once, in which case the Accountant-General will place them under objection, till the necessary vouchers have been obtained. If the awarding officer should at any time have in hand any sum in excess of his immediate requirements, he should repay it into the treasury for credit of the special deposit head; any balance of the sum originally credited, which is not claimed at the expiration of a year from date of the award will be paid into a civil court by the officer in accordance with rule 8.

FORM A.

Statement showing compensation awarded by ______________ under section ____, Act I of 1894, to all the persons interested in the plot of land situated in the village of ______________ in estate ____________, No. ____ on the Roll of the District of ______________, Pargana ______________.

Number and date of statement __________

Date of award ______________

Name of work for which land has been acquired ______________

Number and date of declaration in __________ Gazette, viz., No. ____, dated ______________, page ________.

Serial number.	Names of persons to whom payment is due under the award.	Area of land.	Abatement of land revenue.	A valuation of any buildings (that may be taken) upon the land.	Total amount due to each person including the amount shown in column 5, the amount awarded for the land; interest, costs and any other amounts due to the payee in connexion with the acquisition of the land.	Distribution of the amount in column 6 taken from the subsidiary statement AA.	Remarks.	Number and date of voucher.		Date on which possession of the land was handed over to the departmental authorities for which it is acquired.	
								Number.	Date.	Date.	Reference to the report stating the date.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)		(10) *	
		ACS. CTS.	RS. A. P.	RS. A. P.	RS A. P.						

* To be filled up in the Examiner's Office.

NOTE (1).—Each award statement should be confined to the lands to be taken under one declaration, i.e., the awards given for lands acquired under more than one declaration should not be incorporated in one statement, but as many separate statements submitted as there are declarations.

(2).—Regarding column (7), see Note to Statement AA.

Form AA.

Particulars regarding the acceptance by the persons concerned of amounts entered in Award Statement No.________, dated________.

Name of work for which land has been acquired________

Number and date of declaration in________Gazette, viz., No.________, dated________, page________

1	2	3													
Serial number in the Statement of Award under section 11 of the Act.	Name of person to whom payment is made under the award.	Particulars of amount entered in column 6 of the Award Statement.													
		a			*b*			*c*					*d*		
		Amount accepted without protest.			Amount accepted under protest.			Amount deposited in Court.					Amount undisbursed owing to non-attendance and the treasury in which it is deposited.		
								Amount.			Court.	Reasons for depositing.			
		RS.	A.	P.	RS.	A.	P.	RS.	A.	P.			RS.	A.	P.

Note.—In noting these particulars in the Award Statement, it may be sufficient to enter the letter *a*, *b*, *c* or *d*, as the case may be, in column 7 of the statement, when the whole amount of the award is shown in one of the four sub-columns *a*, *b*, *c* or *d* in this statement.

FORM B.

Statement showing the amount of compensation awarded by the Court of ______ under section 26 of Act I of 1894.

Number and date of statement ______

Name of work for which land has been acquired ______

Number and date of declaration in ______ Gazette, viz., No. ______, dated ______, page ______

Serial number in the Statement of Award under section 11 of the Act.	Names of persons to whom payment is due under the award.	Amount originally awarded.			Amount paid by Collector under the original award.			Total amount awarded by the Court.			Further payments due.			Remarks.	Number and date of voucher.
1	2	3			4			5			6			7	8
		RS.	A.	P.	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.		

FORM C.

No. of Voucher ____________

Name of work for which the land has been acquired ____________

No. and date of declaration in ______ *Gazette*, viz., No. ______, date ______

Serial No. ______ in Award Statement No. ______, dated ______

Name of payee ____________

I ____________ of ____________

Pergunnah ____________ Zillah ____________

do hereby acknowledge to have received Rs. ____________

____________ on account of cost of land taken up by Government,

as detailed on reverse.

Signature of the payee ____________

Locality ____________

NOTE.—The receipt should be in English, but when the payee is unable to write in English, he may give a receipt in the vernacular.

Across in Red Ink.

Paid in my presence $\frac{\textit{in cash}}{\textit{by cheque}}$ *to* ____________ *resident*

of village ______ *station* ______ *pergunnah* ______

______ *District* ______ *the sum*

of Rupees * ______ *annas* ______ *pies* ______ *only*

* In words.

Rs. †

† In figures.

____

Dated ______ 192 .

FORM C.

No. of Voucher ____________

Name of work for which the land has been acquired ____________

No. and date of declaration in ______ *Gazette*, viz., No. ______, date ______

Serial No. ______ in Award Statement No. ______, dated ______

Name of payee ____________

I ____________ of ____________

Pergunnah ____________ Zillah ____________

do hereby acknowledge to have received Rs. ____________

____________ on account of cost of land taken up by Government,

as detailed on reverse.

Signature of the payee ____________

Locality ____________

NOTE.—The receipt should be in English, but when the payee is unable to write in English, he may give a receipt in the vernacular.

Across in Red Ink.

Paid in my presence $\frac{\textit{in cash}}{\textit{by cheque}}$ *to* ____________ *resident*

of village ______ *station* ______ *pergunnah*

______ *District* ______ *the sum*

of Rupees * ______ *annas* ______ *pies* ______ *only*

* In words.

Rs. †

† In figures.

____

Dated ______ 192 .

Reverse of Form C.

DETAILS OF LAND, ETC., AND THEIR VALUES.

*Mauza*________, *Pergunnah*________, *Zillah*________

*Land*________ *Bigha*________ *Cotta*________ *Cuttack*

*Value*________ *Rupees*________ *Annas*________ *Pies*

DETAILS OF LAND, ETC., AND THEIR VALUES.

*Mauza*________, *Pergunnah*________, *Zillah*________

*Land*________ *Bigha*________ *Cotta*________ *Cuttack*

*Value*________ *Rupees*________ *Annas*________ *Pies*

FORM C.

Consolidated voucher for payment made during ______________ 192 , in accordance with Award Statement No. ______, dated ______________ on account of land acquired for, ______________________, in the District of ______________, Tahsil ______________, Mouza ___________

Serial number in Award Statement. (1)	Name of payee. (2)	Area of land. (3)	Amount. paid. (4)			Signature of the payee and date of payment. (5)
			RS.	A.	P.	
	Total ..					

Paid in my presence $\frac{\text{in cash}}{\text{by cheque}}$ to the above persons the total sum of rupees* ________ annas* ________ pies* ________ only.

Dated the ______________ 192 .

Signature of Officer.

* In words.

FORM D.

Name of work for which land has been acquired ______

To THE JUDGE OF THE COURT AT ______

The sum of Rs.______on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in Court under section 31 (2) of Act I of 1894:—

Serial No. in award statement No.	Names of parties.	Area of land.	Amount payable to each.			Remarks.
		ACS.	RS.	A.	P.	
	Total ..		—	—	—	

*Dated*______19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court Deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No. ______

Dated______on the______ treasury.

FORM D.

Name of work for which land has been acquired ______

To THE JUDGE OF THE COURT AT ______

The sum of Rs.______on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in Court under section 31 (2) of Act I of 1894:—

Serial No. in award statement. No.	Names of parties.	Area of land.	Amount payable to each.			Remarks.
		ACS.	RS.	A.	P.	
	Total ..		—	—	—	

*Dated*______19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court Deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No. ______

Dated______on the______ treasury.

FORM D.

Name of work for which land has been acquired ______

To THE JUDGE OF THE COURT AT ______

The sum of Rs.______on account of compensation for land taken up for the above purpose, payable as detailed below, is tendered for deposit in Court under section 31 (2) of Act I of 1894:—

Serial No. in award statement No.	Names of parties.	Area of land.	Amount payable to each.			Remarks.
		ACS.	RS.	A.		
	Total ..		—	—	—	

*Dated*______19 . *Land Acquisition Officer.*

Received the above amount for credit to Civil Court Deposits.

Judge.

Note.—This form should be used when the amounts of compensation due are sent to a Civil Court for deposit.

Across.

Paid by cheque No. ______

Dated______on the______ treasury.

FORM E.

Name of work for which land has been acquired ______

To the Officer in Charge of ______ treasury.

Please receive for transfer to credit of Revenue Deposits the sum of Rs. ______ on account of compensation for land taken up for the above purpose, payable as detailed below :—

Serial number in award statement number.	Names of persons to whom due.	Area of land.	Amount payable to each.			Remarks.
		ACS.	RS.	A.	P.	
	Total ..					

Dated ______ 19 . *Land Acquisition Officer.*

Received the above amount and credited to Revenue Deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to treasury in the absence of proprietors who have failed to present themselves for payment.

FORM E.

Name of work for which land has been acquired ______

To the Officer in Charge of ______ treasury.

Please receive for transfer to credit of Revenue Deposits the sum of Rs. ______ on account of compensation for land taken up for the above purpose, payable as detailed below :—

Serial number in award statement number.	Names of persons to whom due.	Area of land.	Amount payable. to each			Remarks.
		ACS.	RS.	A.	P.	
	Total ..					

Dated ______ 19 . *Land Acquisition Officer.*

Received the above amount and credited to Revenue Deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to treasury in the absence of proprietors who have failed to present themselves for payment.

SEVENTH LIST OF CORRECTIONS TO THE LAND ACQUISITION MANUAL.

Page 158.—*Insert* the following as Appendix II-A :—

APPENDIX II-A.

Principles to be observed in the assessment of compensation for land required in British India and in Indian States respectively for irrigation, navigation, embankment and drainage works.

(Resolution of the Government of India, Foreign and Political Department No. F-5 (2)-R/28, dated the 5th May 1930.)

RESOLUTION.

The Government of India have had under consideration the question of the revision of the principles to be observed in the assessment of compensation for land required in British India and in Indian States, respectively for irrigation, navigation, embankment and drainage works, and works connected with, or subsidiary to them. The existing principles were scrutinized in consultation with the Standing Committee of the Chamber of Princes and Chamber and a draft of the revised principles was referred to Local Governments, Political officers and Darbars for their views. After considering these views and after further reference to the Standing Committee the draft was slightly amended. The Government of India are, accordingly, pleased, in supersession of their previous orders on the subject to announce that the following principles shall be observed in the assessment of compensation for the acquisition of land in State territory for irrigation, navigation, embankment and drainage works and works connected with or subsidiary to them, undertaken by a Local Government in British India and *vice versa*, provided all parties concerned have previously agreed to the construction of the works :—

I. When land in British territory is required by or at the expense of an Indian State, such land as is in private ownership will be acquired by British revenue authorities as for a public purpose, under the provisions of the Land Acquisition Act. The state will be required to pay, as compensation for the land made over to it, the actual amount of the awards paid in the case of private land, and in the case of Government land, the full market value *plus* such incidental items of expenditure as the cost of establishment, demarcation, stationery. The State will also be required to pay compensation for the value of extinguished land revenue, the amount to be settled by negotiation in individual cases, due regard being had to the indirect advantages accruing to the British Government from the works, etc. In cases which involve the submergence of considerable areas, compensation for the loss of miscellaneous revenue derived from such areas may be payable in addition. Where differences of opinion occur between the State concerned and the local revenue authorities as to the compensation payable a Board of Arbitration will be appointed consisting

of one member appointed by the State, another by the Government of India (or by the Local Government in the case of a State which is in direct relations with a Local Government) and a third member appointed by mutual consent and their decision shall be final.

II. Before making an award in the case of private land in British territory to be acquired for a State, or fixing the amount of compensation in the case of Government land, the responsible officer will be required to send all necessary details, together with the estimates of the amounts payable to the State and to give every facility for checking them to the officer or the officers concerned for the purpose, and to take into consideration any representation which such officer or any other duly accredited representative of the Darbar may make, whether orally or by letter. Such officers or representatives should be afforded an opportunity of appearing in person or by agent and of producing evidence as to the value of the land before any award relating to it is made or the amount of compensation is fixed.

III. When land is required in State territory the general principle to be observed shall be that the same degree of compensation shall be paid to the State concerned as is payable by States under the provisions of the preceding clauses. In the case of those States and Estates who under the terms of their Treaties, Sanads and any other existing contracts are bound to provide any facilities or land in their territories free of cost, the question whether compensation will be paid or not will be left for negotiation between the political authorities and the State concerned.

IV. In order to give effect to these general principles, the following procedure shall be observed :—

In cases in which it is proposed to acquire private rights in land in a State, the proceedings where the State concerned has enacted a Land Acquisition Act, will be under that law, and the provisions of clause II will apply *mutatis mutandis*. Where there is no Land Acquisition Act or where the State itself owns or has rights in the land, which it is proposed to acquire, the estimates of the amount payable will be framed by the State authorities and forwarded to the Local Government concerned, who will be afforded the facilities specified in clause II for checking the estimate. If such estimates are accepted by the Local Government, they will be treated as a settlement. Where, however, differences of opinion occur between the State authorities and the Local Government concerned, as to the compensation payable, arbitration will take place. The compensation payable shall be assessed by a Board of Arbitration consisting of one member appointed by the State, another by the Government of India or the Local Government in the case of a State which is in direct relations with a Local Government and a third member appointed by mutual consent, and their decision shall be final. The Board of Arbitration will decide the incidence of the cost of arbitration.

V. In determining the amount of compensation payable, the arbiters will be guided by the general principle that the amount shall be equivalent to what would have been payable by the State had acquisition taken place in British territory and had compensation been assessed in the manner laid down in clause I *supra*.

VI. When a work is constructed by a State or States in British territory the State or States concerned will have precisely the same rights as authorities in charge of Government works in British territory in the matter of quarrying stone or excavating material required for the purposes of, or in connection with, the work. In cases where rates of royalty for quarrying stone and excavating material are levied, resort will be had to arbitration in the manner provided in clause IV above, in the event of agreement as to the rates payable not being reached.

VII. When a work is constructed in State territory, the general principle to be observed will be that the authorities in charge of the work shall enjoy the same rights as regards quarrying stone or excavating material as they would be entitled to in British territory, the rates of royalty, if any, payable being determined in accordance with the rules in force in the State. In cases where there are no such rules, or where the authorities in charge of the work consider that the rates under State rules are unduly high, resort will be had to arbitration in the manner provided in clause IV above.

VIII. Where land is required for temporary occupation, the procedure in British India will be under Part VI of the Land Acquisition Act, and in States in which a law on the same lines is in force, under that law. In cases where there is no such law, the terms of occupation and use will be settled by mutual agreement; and in case of dispute as to the terms, by arbitration in the manner prescribed in clause IV.

[VII list, 27-6-30]

APPENDIX III.

Revised Land Acquisition Rules.

PRELIMINARY.

The following is an abstract of the orders issued by the Government of India and the Railway Board from time to time regarding the acquisition, transfer, relinquishment and leasing of land on railways. These rules should be observed in future on all railways, whether constructed or worked by the State or by Companies.

NOTE.—These rules do not apply to land taken up for tramways.

SECTION I.

General Instructions.

Land to be invariably acquired under the Act.

2. Whenever land which does not already vest in Government is required for railway purposes, it should be taken up under the Land Acquisition Act, Act I of 1894, as acquisition under the Act confers an indefeasible title. Land which is already public property and in which no interests of private persons exist, should not form the subject of proceedings under the Land Acquisition Act. *

Private negotiations with owners of land to be accquired for a public purpose.

3. In cases however where it is considered that appreciable economy would be effected, there is no objection to a Railway Administration entering into negotiation, either direct or through a deputy, agent or broker, with the owners of land about to be taken up for a railway purpose with the object of coming to an amicable settlement with them as to the price to be paid previous to the initiation of proceedings under the Land Acquisition Act and with a view to guarding against subsequent exorbitant demands or awards. The terms of the settlement thus arrived at should be communicated to the Land Acquisition Officer who, though not bound to accept in his award the price agreed upon beforehand, will no doubt do so in ordinary cases. As it is considered necessary that there should always be a perfectly clear understanding as to whether the price agreed upon does or does not include the additional 15 per cent due under section 23 (2) of the Land Acquisition Act, the statement of the settlement arrived at should take the form of an agreement that the owner is willing to sell for a certain specified sum plus 15 per cent for compensation, the sum of the two being the actual price agreed upon. If a broker or agent is employed, any fee which it may be proposed to pay to him will require the sanction of the Railway Board. Such fee should not ordinarily be made dependent on the price to be eventually paid, and if sanctioned and paid, it should be treated as part of the cost of acquiring the land.

When it is proposed to take up land in the neighbourhood of large cities or other congested areas, the desirability of adopting these measures should be considered.

In all cases, however, it is necessary that the final acquisition should be effected under the Land Acquisition Act‡*

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* For original orders, see Government of India, Public Works Department, letter No. 1780 R.C., dated 12th November 1904, printed as Appendix H.

Arrangements for acquisition will be made by the Local Government.

4. All arrangements for the acquisition of land required by a railway will be made by the Local Government or Administration, as the case may be, of the province in which the land required is situated. The local procedure to be followed and the information to be furnished for the purposes of acquisition should therefore be in conformity with the instructions prescribed by each Local Government or Administration.

All land should be taken up as for permanent occupation.

5. All land for railway purposes, whether acquired temporarily or permanently, will ordinarily be taken up in the first instance as for permanent occupation and valued accordingly. In special circumstances, however, where land is needed for temporary purposes and where there is little likelihood of the land on the expiration of the term of temporary occupation being rendered unfit to be used for the purpose for which it had been utilized immediately before such occupation, temporary acquisition may be undertaken under section 35 of the Land Acquisition Act (Act I of 1894) provided that such procedure would result in economy. Waste or arable land can be occupied temporarily only for a period not exceeding three years from the commencement of occupation—vide section 35 (1) of the Land Acquisition Act (No. I of 1894.)

Classification of railway land.

6. With a view, however, to determine what the disposition of the land will probably be on the completion of the work for which it had been acquired, the following classification will be adopted :—

(*a*) *Railways constructed by Government or by companies not entitled to receive land free of cost under their contracts.*

On these railways land is divided into two classes, viz.—

(i) Permanent land.

(ii) Temporary land.

(i) *Permanent land.*—Land which will be required permanently after the railway is open for traffic and the work of construction is complete. Under this head will be included all land to be occupied by the formation of the permanent line of railway with side slopes of banks and cuttings, and the terms connected therewith ; catch-water drains and borrow pits or such parts of them as it is necessary to retain ; the entrances to tunnels and shafts belonging to them ; the sites of bridges, and protection or training works ; station yards ; landing places for railway ferries ; ground to be occupied by works belonging to the railway such as gas works, arrangement for water-supply, septic tanks, collecting pits, filter beds and pumping installations, etc. ; ground for the storage, manufacture or acquisition of materials ; land for sanitary zones, cemeteries, churches, plantations, gardens and recreation grounds ; sites for stations, offices, workshops, dwelling houses and other buildings required for the purpose of the railway, or the accommodation of the staff, with the grounds, yards, roads, etc., appertaining thereto.

Under this head will also be classed land oustide the permanent railway boundary, which will be required for the permanent diversion of roads or rivers, or for other works incidental to the construction of the railway, which are made for public purposes and will not on completion of the works be maintained by the railway authorities.

(ii) *Temporary land.*—All land which is acquired for temporary purposes only and which is relinquished after the work of construction is complete.

(*b*) *Railways constructed by companies who receive land free of cost.*

On railways constructed by companies which are entitled to receive land free of cost land is divided into four classes, viz. :—

(i) Class " A " land.
(ii) Class " B " land.
(iii) Class " C " land.
(iv) Class " D " land.

(i) *Class " A " land.*—Land which the company receives for permanent occupation free of charge under its contract or other arrangement with Government. Under this head is included all land required for works of the railway which are permanent and will be necessary for the line when opened, such as land for the formation of the permanent line with side slopes, berms, catch-water drains, etc. The occupation of this land by the company will be so far permanent that it will cease only when the contract is terminated or surrendered and the whole lapses to Government.

(ii) *Class " B " land.*—Land which the Railway Company receives for temporary occupation free of charge under its contract or other arrangement with Government. Under this head is included all land essential for the execution of the permanent works of the railway but not required after the completion of the line in part or whole, such as land for spoil banks, for extra excavation to make banks, and for the storage of material held in stock by the Railway Company pending the construction of the line or their despatch to the works.

(iii) *Class " C " land.*—Land which the Railway Company has to provide at its own cost. Under this head is included land which is required for the provision or preparation of materials for purposes contingent on the actual execution of the works on the line, or for other miscellaneous objects which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the company a claim to the provision of land free of charge.

(iv) *Class " D " land.*—Land which, though required in consequence of the works of a railway, does not come directly into the occupation of the Railway Company; such land will be provided by Government free of cost. Under this head is classed land required *outside* the railway boundary for the diversion of roads or rivers, and for the construction of roads which are made for public purposes and which will not afterwards be maintained by the company.

7. The classification above generally applies to Railway Companies that receive land free of cost. In some cases, however, where the conditions under which Railway Companies receive land free of cost vary according to the terms of their respective contracts (or other arrangements), it will be necessary to modify the classification to suit such conditions. For instance, where a railway is entitled to receive land referred to in Class C above, free of cost from Government, such land should be shown under Class A or B according as the land is required permanently or temporarily.

When the transfer of land from one class to another is contemplated, the approval of the Railway Board should be applied for to such transfer only when it involves a charge against State funds.

8. In the case of lines which, for administrative purposes, are under the control of a Local Government or Administration, the Railway Administration concerned should invariably, unless Imperial funds are involved, address such Local Government or Administration direct on matters pertaining to the acquisition of land. Should any technical advice be required by a Local Government or Administration in connexion with the acquisition of land for such lines, the assistance of the Government Inspector of Railways of the circle concerned may be taken.

Railways under the administrative control of a Local Government or Administration.

SECTION II.

Procedure for acquisition preliminary to putting the Land Acquisition Act into force.

9. Whenever land is required for railway purposes, an application should first be made direct to the Revenue Officer in charge of the district in which the land is situated for a statement of the value of the land and a draft declaration for acquiring it. The application shall set forth clearly the purpose for which the land is required, and shall be accompanied by the following documents specifying the extent of the land and such other particulars necessary for its identification :—

Particulars to be specified in the application for land.

(*a*) A complete set of land plans prepared in accordance with the instructions given hereafter.

(*b*) A complete set of schedules prepared in the form given in Appendix B or in such other form as may be prescribed by each Local Government or Administration to suit local conditions.

10. When the work of acquisition extends to more than one district but lies within one division, application should be made to the Commissioner, when in more than one division to the Chief Revenue Authority of the province.*

11. For the better identification of land in cases where the areas to be taken up are extensive, the following further information should also be furnished by a Railway Administration to the Local Government or Administration in applying for the acquisition of land :—

(*a*) The name of the railway.

(*b*) The copy of the order of Government, when necessary, sanctioning the construction of the railway.

(*c*) A brief general description of the route to be followed by the railway with the names of the more important villages or towns through or near which it is intended that the railway should pass.

(*d*) A list of the civil districts in which the land will be required for the purposes of the railway with the approximate area in acres of the land required in each.

(*e*) For each civil district, the name or description of the place or places at which the land plans for the district will be available for inspection by the public.

N.B.—Every endeavour should be made to avoid interference with religious edifices, burial-grounds or other places or objects which may be considered as sacred, and if the land applied for contains religious edifices, etc., the fact must be specially noted in the application.

* Vide Government of India, Public Works Department, Circular No. XI Railway, dated 21st September 1895 (Appendix K).

With the statement specified above should also be sent for the information of the Local Government or Administration a general index plan to a scale of one mile to one inch showing the route to be followed by the railway.

12. Should any land be required for temporary occupation only under section 35 of Act I of 1894, it should form the subject of a separate application in which the fact that permanent acquisition is not required should be clearly stated.

Estimate preliminary to putting Land Acquisition Act into force.

13. On receipt from the Railway Administration of the application for land drawn up in accordance with the procedure prescribed above, the responsible Revenue official will forward to the Railway Administration a statement showing the nearest approximate cost of the land which can be obtained without a detailed valuation of the property and also a draft declaration under section 6 of the Land Acquisition Act on which it should be recorded that there is no objection to the acquisition of the land on any general or specific grounds.* In the case of large projects, in lieu of the statement prescribed above, the Revenue Authorities will furnish to the Railway Administration *data* in the following specimen form showing the estimated average value per acre as near as may be for the different classes of land in the localities affected by the projects :—

Miles.	Rupees per acre.			Remarks.
	Cultivated.		Uncultivated.	
	Irrigated.	Unirrigated.		
3—15	80	30	10	
15—17	300	120	30	Town lands of Rampur.
17—27	35	25	5	

In no circumstances should the local Revenue Authorities be called upon to furnish *data*, even rough approximations, unless they are supplied with a sketch (or detailed plans if such have already been prepared) containing the particulars required by paragraph 3 of the Government of India, Public Works Department, Circular No. XI Railway, dated 21st September 1895—vide Appendix K, as a departure from the strict observance of this requirement throws upon the Revenue Authorities undue responsibility for the adequacy of the preliminary estimates.

14. When the estimated value of the land exceeds Rs. 25,000 in any one district or one lakh in any division it is necessary that the *data* should be countersigned by the Commissioner † of the division in which the land is situated or the Chief Revenue Authority of the province respectively.

15. The statement or *data* will be taken as representing the value of the land, inclusive of tenants' rights but exclusive of the value of houses, trees, standing crops, etc., on the land, the approximate cost of which should be separately furnished by the Revenue Authorities. In addition to the *data* prescribed above, the Revenue Authorities should also give a rough estimate

* The procedure adopted by the Revenue Authorities and Accounts Officers in connexion with this work is laid down in Government of India, Finance Department, Resolution No. 1580, dated the 29th June 1886.

† In provinces like Madras where there are no Commissioners of divisions, the countersignature of the Collector of a district will be sufficient.

of the amount of such further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act, including, when necessary, an estimate of the capitalized value of the abatement of land revenue or of payments to be made direct to the proprietors of the area acquired in lieu of abatement of land revenue and charges for establishment and contingencies. Special care should be taken by the Revenue Authorities in furnishing as accurate *data* as possible, so as to prevent inaccurate estimating. With this information in hand, the Railway Administration should proceed to frame an estimate * of the total cost of acquisition in detail, including (in cases where voluntary surrender is not probable) the additional 15 per cent laid down in section 23 (2) of the Land Acquisition Act on the market value of the land under section 23 (1), clause 1 of that Act.

In doing so, it will be found generally convenient to adopt the following form :—

		RS.
Value of land	waste	
	arable	
	homestead	
	bazaar	
Value of	(*a*) Masonry houses	
	(*b*) Thatched houses	
	(*c*) Trees	
	(*d*) Standing crops	

Add additional compensation at 15 per cent under section 23 (2) of the Act on the market value of the land, including houses, trees and crops.

Add market value of Government land taken up.
,, damages under clauses 2 to 6 of section 23 (1) of the Act.
,, capitalized value of the Government revenue (when necessary).
,, cost of establishment (when necessary).
,, contingencies.

16. Should the estimate so framed be within the powers of the Railway Administration to sanction and there be no objection to the acquisition of the land on the part of the Revenue Authorities, the Agent or officer duly empowered to sanction the estimate will then accord sanction and allot the necessary funds and forward the estimate duly countersigned by the Chief Auditor of Accounts or the Government Examiner of Accounts, as the case may be, together with the draft declaration and dulysigned plans and schedules, to the Local Government or Administration who will take the necessary steps for the acquisition of the land.

If the sanction of the Railway Board is necessary to the estimated cost of the land, the Railway Administration should apply for and obtain that sanction before applying to the Local Government or Administration for the acquisition of the land.

17. The cost of land forms an integral part of the cost of a work; accordingly in determining the powers of a Railway Administration to sanction a work, the cost of such work should be taken as a whole inclusive of that of the land, irrespective of the source from which the cost of the land is met.

* As in the majority of reports and estimates submitted by Railway Administrations, it has been noticed that there is no indication to show whether land estimates have been prepared from *data* furnished by the Revenue Authorities it will be convenient if in future a remark is made in the report or estimate to this effect.

Page 165, *Appendix III, paragraph* 18.—*Add* the following at the end of the paragraph 18 :—

Where any third party's right of way in the form of a path or road has been permanently obstructed by the Railway, either by the land having been acquired or otherwise, unlimited powers are delegated to the Agent for the acquisition of land to restore the right of way on another site.

(G.O. No. 1893, Rev., dated 14th Sep. 1929.)

[I list, d. 16-9-29]

Pages 165–166, *Appendix III, section II, paragraph* 21.—*For* "40. Subsidized Companies—Land" wherever it occurs in this paragraph *substitute* "11. Subsidized Companies—Land."

[III list, 1-10-29]

18. As a general rule land may not be acquired except in connexion with a duly-sanctioned work, but this rule does not debar the acquisition of land for railway purposes, such as sanitary zones, which are unconnected with any particular work.

19. In cases of urgency, Railway Administrations are empowered to depart from the ordinary rule stated in the previous paragraph and sanction the acquisition of land prior to the preparation and sanction of estimates either for the work or the land, provided the total probable cost of the work is within the power of the Railway Administration to sanction. Where it is anticipated that the estimated cost of the land or the work will exceed the powers of sanction of the Railway Administration, the reasons for urgency of acquisition and brief particulars of the work for which it is required together with information of the probable cost of the land and of the work should be reported to the Railway Board whose sanction to the acquisition of the land should be applied for.

Procedure in the case of land required by Railway Companies who are entitled to land free of cost under the terms of their contract and who construct and work their own lines.

20. In the case of Railway Companies, who are entitled to receive land free of cost from Government and who construct and work their own lines, land plans and schedule in duplicate of the land required, drawn up in accordance with the instructions given hereafter, should be submitted in future by the Agent of the Railway to the Government Inspector of the Circle for countersignature before application is made to the Local Government or Administration concerned for its acquisition. The Government Inspector of Railways, on approving of the proposal, will countersign and return the land plans and schedules to the Railway Administration, such countersignature to signify not that the Government Inspector of Railways accepts the correctness of the land plans and schedules (for which the Agents themselves are responsible) but that he is satisfied that the land applied for is actually required for railway purposes. The estimates of the cost of such land should be submitted in full detail and countersigned by the Chief Auditor or Government Examiner of Accounts, as the case may be, to the Government Inspector of Railways for sanction simultaneously with the land plans and schedules in cases where the cost of the work for which the land is required is within the powers * of the Railway Administration to sanction or is within the limit of the provision made for land in the sanctioned project estimate. In all other cases, the detailed estimate of cost should be submitted for the sanction of the Railway Board together with the estimate of the cost of the work accompanied by one set of land plans and schedules duly countersigned by the Government Inspector of Railways of the Circle.

Procedure in the case of branch lines to be constructed and worked by main line administrations.

21. In the case of land required for branch lines or District Board Railways to be constructed and worked by main line administrations on behalf of the companies or district boards owning the branch lines, there will be no need to submit plans and schedules to the Government Inspector of Railways of the Circle; it will suffice if land plans and schedules are countersigned by the Agent of the main line prior to the Revenue Authorities being addressed. It will also rest with the Agent of the main line to accord sanction to detailed estimates of the cost of land in

* Vide Railway Board's Circular No. 2149 R.C., dated 22nd July 1909.

such cases within the provision made for land in the sanctioned project estimate, under the head '40. Subsidised Companies—Land' and in the case of land required for open line works on such branch lines or District Board railways, besides countersigning the plans and schedules, the Agent of the main line will also sanction land estimates debitable to '40. Subsidised Companies—Land,' provided the total estimates for the work (including cost of land) is within his powers of sanction, or refer to the Railway Board if the total is beyond his powers.

Where land is granted free of cost, Government undertake to secure to the railway only empty possession.

22. Where land is acquired by Government and made over free of cost to a Railway Company for the construction of a railway, the Railway Company in the absence of any express stipulation to the contrary, are entitled to dispose of, or use for the purpose of the railway any material, trees, buildings or other property that may be on the land when it is handed over to them, but Government are entitled before handing over the land to dispose of or stipulate for the disposal of, any such material, trees, building, etc., which they may have been obliged to acquire with the land and to apply the sale-proceeds in reduction of the cost of acquisition. Further, it is the business of the Railway Company to clear the land of all obstacles or obstructions and prepare it for the construction of the railway, Government undertaking to secure to them empty possession only free of encumbrances.*

SECTION III.

Procedure after the Act is put into force.

After publication of declaration.

23. After the publication of the declaration under section 6 of the Land Acquisition Act, the Local Government or Administration will direct the Collector, or other officer specially appointed for the purpose, to proceed to acquire the land in the manner indicated in the Land Acquisition Act, and all subsequent proceedings will be taken by the Local Government or Administration. When the awards have been announced, the Railway Administration may enter into possession of the land but before doing so, the authority of the Land Acquisition Officer to its occupation should be obtained. When possession is taken, the acquisition is completed and the land then vests absolutely in Government. Up to the moment of taking possession under the Act, Government is at liberty to withdraw from the acquisition but not afterwards. It should be noted that withdrawal from acquisition entails liability for payment of compensation for any damage suffered by the owner in consequence of the notice or any proceedings thereunder [section 48 (2) of the Land Acquisition Act No. I of 1894].

Valuation for purposes of the award.

24. A Land Acquisition Officer in an inquiry and award under section 11 of the Land Acquisition Act, shall give notice to the Railway Administration or their chief local representative of the day on which the inquiry is to be held and shall take into consideration any representation which the Railway Administration or their chief local representative may make whether orally or by letter.† Also before finally making the award, the Land Acquisition Officer will allow the Railway Authorities an opportunity of appearing in

* Vide Government of India, P.W.D., Circular No. 55, dated 29th June 1861.

† Vide Government of India, Revenue and Agriculture Department, Circular No. 9-292 I., dated 28th June 1906.

person or by agent and of producing evidence as to the value of the land. Railway Administrations are desired to take advantage of these opportunities for representing their views and protecting their interests. Further, in order to protect the interests of Government in cases where land is granted free of cost to a railway, it is incumbent on the Collector of the district, or should he himself not be making the award, the Land Acquisition Officer so authorized, to refer to the Government Inspector of Railways of the Circle or the Agent of Railway Administration or his representative (vide paragraphs 20 and 21 above) through the Collector of the district, all cases in which the awards are likely to exceed the original estimates by more than 10 per cent or by more than Rs. 10,000. The Government Inspector or the Agent of the Railway will then decide whether it is advisable to be present and if so, he will inform the Collector or the Land Acquisition Officer (through the Collector) to that effect within one month of the date of the receipt of the reference. If no such intimation is received by that date, it should be assumed by the Collector that the Government Inspector or the Agent does not want to be present and there is no objection to the award being then made. It is very important that the procedure herein above laid down is taken advantage of in order that the interests of the purchaser may be adequately represented.

If the award as finally settled after objections have been heard in the course of proceedings, exceeds by more than 20 per cent the original estimate of the cost of acquisition or if the evidence as to the value is conflicting and such as to indicate a reasonable probability that the civil court will award a sum exceeding that estimate, the Land Acquisition Officer should defer the award and inform the Railway Administration concerned of the facts. Further action will then be suspended until the Railway Administration has decided whether acquisition should be proceeded with or not. Before communicating such decision, the Railway Administration should, when the excess is likely to exceed their powers of sanction, submit a report of the matter for the orders of the Railway Board, explaining at the same time whether the acquisition of the land is necessary or whether some plot of land other than that originally contemplated may not be taken up instead. It is incumbent on Railway Administrations to endeavour to avoid the location of a railway line upon land, the acquisition of which will entail either unnecessary expenditure on Government, or annoyance to the owners, if the object sought can be equally well attained by a slight alteration of the alignment or in some other manner.

Revised estimates.

25. If during the proceedings under section 11 of the Land Acquisition Act, it becomes apparent to the Land Acquisition Officer that the cost of the land will exceed the amount of the sanctioned estimate, he should report the excess to the Railway Administration concerned and at the same time furnish fresh data for the revision of the estimate. The Railway Administration will then frame a revised estimate of cost in full detail, and if the excess is within the powers delegated to the Railway Administration, sanction the estimate and allot the further funds necessary. Should the revised estimate however require the sanction of the Railway Board, such sanction should be applied for, and in doing so, an explanation of the cause of excess should be furnished where it exceeds the initial estimate by more than 10 per cent. It should be noted that the countersignature of the responsible Revenue Authorities should be obtained to the revised estimate as in the case of the original estimates.

Completion reports.

26. When acquisition has been finally completed and awards made, a completion report showing the actual expenditure incurred on the acquisition should, in the case of lines under construction, and of open line works costing Rs. 18 lakhs and over be submitted to the Railway Board for sanction in accordance with Railway Board's Circular No. 432-C-4374, dated 27th November 1914, along with the completion report to the works for which the land has been acquired. These completion reports should be drawn up in detail by the Railway Administration on the awards actually made.

27. As regards land taken up for open line works costing less than Rs. 18 lakhs, no completion report need be submitted to the Railway Board unless it is found that expenditure has been incurred over the original or revised estimate, in excess of the powers of the Railway Administration.

SECTION IV.

Transfer of lands between Railway Departments of Government and other public bodies.

The general position of State lands and those held by Railways.

28. The general position of all State lands in India is as follows.* Their ownership vests in His Majesty's Secretary of State for India and thus property in them appertains neither to a Local Government nor to any particular department. They are ordinarily administered by Local Government of the Province in which they are situated, subject to statutes or to any rules made or sanctioned by the Government of India, and to the general executive control of the Supreme Government. When State land is made over for occupation and management by any department of Government for any particular purpose, it cannot be used for other purposes. The department has no property in the land, its interests being confined merely to a right of occupation and user, and when the land is no longer needed by the department concerned, it reverts to the administration of the Local Government. If in any case the Local Government considers that land should be withdrawn from the occupation of an Imperial Department and the head of the department does not agree, the Local Government should refer the matter for the orders of the Government of India. So also with respect to lands held by Railways, the ownership vests in the Secretary of State, the interests of Railways being confined to the rights of occupation and user, and when no longer required these lands should revert to the Secretary of State, i.e., the Local Government who are the proper custodians on his behalf. A Railway Administration is therefore not competent to transfer such rights in land direct, nor to come into possession of land except through the Secretary of State, i.e., the Local Government, who should be a party to any acquisition or relinquishment of land. Consequently when a Railway Administration requires land which is in the possession of Government or of another Railway or public body, it should first obtain the consent of the Department of Government or of the body in whose possession the land is, to the land being so transferred. On obtaining this assent, the Local Government should be approached in accordance with the procedure referred to above with respect to land to be taken up under the Land

* Vide Government of India, Finance Department, Resolution No. 295-A., dated 19th January 1910, printed as Appendix I.

Acquisition Act; if the Local Government agree to the proposal, they will make all arrangements for the transfer of the land and the assessment of its value. A Railway Administration is thus only concerned with receiving land or relinquishing land to the Secretary of State, i.e., beyond taking such steps as the Local Government may require in order to secure possession or relinquishment as the case may be, it is of no concern to a Railway Administration what action a Local Government may take with respect to such land.

29. When a Railway Administration holding land from Government wishes to transfer land to, or receive land from, an independent Corporation or Company, it should inform the Local Government of its intention, and Government, if they agree to the proposal, will execute the formal deed of transfer with the Corporation or Company concerned, or cause the Railway Administration to have such a deed drawn up for execution by Government, whichever procedure is more convenient. After executing the formal deed of transfer, the Local Government will hand over the land to the Railway Administration. A formal deed of transfer will, however, only be required when one of the parties to the transfer of the land is neither Government nor a Railway Company holding its land from Government. In the case of transfers of land between two Railway Companies each of which holds its lands from Government, no formal deed will be required but the consent of the Local Government to the transfer and a record of the transaction will be all that is necessary.

30. It should be noted that the rules and procedure laid down with respect to obtaining the approval of the Railway Board to lands taken up under the Land Acquisition Act apply equally to Government lands also; such approval, however, in the case of Government lands should only be applied for after the consent of the Department of Government or of the public body in whom the land to be transferred vests, has been obtained.

31. When land which is already public property is being taken up for a work together with private lands it should be separately applied for, and not included in the plans and notifications of private lands to be acquired under the Land Acquisition Act. The market value of such land, however, should be included in the general estimate of the cost of the land to be taken up for the work. It should be borne in mind that additional compensation under section 23 (2) of the Land Acquisition Act should not be added to the market value of land which is public property.

32. All transfers of such land will be outright. When, however, it is desirable to retain rights over a plot of land, the Department of Government or railway, before making it over to the Local Government for transfer, should obtain the written consent of the Department of Government or the railway, as the case may be, to whom the land is being transferred, to the retention of such rights. In no case, however, is a lease of land permissible between a department of Government and a railway or between one railway and another.

33. With regard to the transfer or acquisition of land in Cantonments or in charge of the Military Authorities, and the construction of buildings and other works in the vicinity of forts and Cantonments, the orders and procedure laid down in Railway Board's circular letter No. 2650-R.G., dated the 2nd September 1913 (vide Appendix C) should be strictly followed.

Section V.

Relinquishment of land.

Relinquishment of land held by a railway in excess of requirements.

34. When land which has been occupied for the purpose of a railway is no longer required, it should, as pointed out above, be made over to the local revenue authorities who will arrange for its disposal; when the intention in relinquishing an area is to transfer it to any particular Department of Government or public body, this intention should be communicated to the local Revenue Authorities, who will arrange for the disposal of the land accordingly. The sanction of the Railway Board is ordinarily not necessary to the relinquishment of railway land, except when a deviation from the rules laid down is contemplated. The disposal of lands held in excess of requirements will be governed by the following rules :—*

(1) *Land which is likely to be required for the railway in the near future* should remain in the custody of the Railway Authorities; and they should not be called upon to relinquish it. The term 'near future' is to be liberally interpreted with reference to the probable requirements of the railway; and when there is any uncertainty, the benefit thereof should be given to the Railway Administration in favour of retention.

(2) *Land which will probably be required in the distant future* should not be relinquished, but be made over to the Revenue Authorities for safe custody. Land so transferred is not to be let or sold, except on such terms of temporary occupation as will not interfere with its being made available on short notice for railway purposes. These conditions may best be attained if the concurrence of the Railway Authorities is first obtained in any proposals that may be made for utilizing the land from time to time.

(3) *Land for which the railway is unlikely to have any further use* should be relinquished outright to the Revenue Authorities for disposal.

When a reasonable price is not likely to be obtained by the immediate sale of the land outright, there is no objection to the Revenue Authorities retaining the land until an offer more commensurate with its value is obtained provided that the sale is not delayed for a period disproportionate to the anticipated increase in the price. In such cases all that is necessary is to ensure that until sold, the land continues to be shown as belonging to the railway in the land registers of the Revenue Authorities.

Section VI.

Leasing of, and grants of, railway lands.

General principles relative to the leasing of railway lands.

35. With a view to developing certain classes of traffic or to affording conveniences which are beneficial alike to trade and to railways, and also with a view to the utilization of railway land not immediately required for railway purposes, Railway administrations are permitted to grant to outsiders under a lease or licence, rights and facilities with respect to plots of railway land subject to the rules and principles † enunciated below.

* Vide Government of India, Public Works Department, letter No. 1628-R.C., dated 17th October 1904, printed as Appendix I.

† Vide Railway Board's Circular No. 3222-R.G., dated 26th November 1912 (Appendix N).

36. Having regard to the provisions in the contracts between the Secretary of State for India and Railway Companies, which require a Company to go out of possession of such lands as are unnecessary to be retained for purposes of the contract, it is not permissible for a Railway Company to lease any part of such lands without the concurrence of the Secretary of State, even in cases where the lands to be leased are to be utilized in connexion with the carrying out of a railway purpose.

37. In cases, where railway land may be required by outsiders for any purpose which can fairly be held to be a bona fide purpose of the undertaking, such for example, as those marginally noted, the necessity for obtaining the approval of the Railway Board to a lease can be avoided by the grant of a licence permitting the use of railway lands for the purpose contemplated, at the same time such restrictions being imposed as may be necessary in the circumstances of each individual case.*

(i) Erection of oil installations.
(ii) Warehouses, wharfs or other premises for storing goods after arrival or before despatch by rail.
(iii) Shops for station vendors.

38. A licence may also be granted to outsiders for the laying of pipes, the installation of electric wires or such other necessary purpose, and to railway servants for the purposes of cultivation, etc.

39. A sample copy of a licence form is appended for information—vide Annexure to Appendix N. This applies to bulk oil depots only, but it may be adapted with legal advice to other classes of operations connected with a railway, and it is suggested that it should be used freely in preference to entering into a lease.

40. In cases, however, where application is made by outsiders for the lease of railway land for purposes *not* connected with the working of a railway :—

(i) If such land is no longer required for the purposes of the railway, or is required only in the distant future, the land should be relinquished to the Local Government concerned to be dealt with in accordance with the procedure laid down in rules (1) and (2) of paragraph 34 above for the relinquishment of railway land.

(ii) If, on the contrary, the plot of railway land applied for will be required in the near future or is so situated that it would be inconvenient to relinquish it, the plot may be leased or a licence granted for its use only with the approval of the Railway Board. In such circumstances, the Local Government should be consulted by the Railway Administration before the proposed lease or licence is submitted to the Railway Board. It should be noted that all leases and licences should be prepared under the advice of the Legal Advisers of a Railway Administration unless they have been drawn up in accordance with the standard forms prescribed by the Government of India or the Railway Board.

41. In no case is a lease of land between a Railway Administration holding land from Government and a Department of Government, or between two Railway Administrations holding land from Government permissible. The consent of the Local Government to the transfer, and a record of the terms on which the land is made over is sufficient in such cases.

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* NOTE.—There is no objection to land originally ceded by a Native State for railway purposes being similarly leased to an outsider for a bona fide railway purpose without a specific reference to the Darbar concerned. No sales of bulk oil should, however, be permitted on land so leased without the consent of the Darbar.

Grants of railway land.

42. Whenever it is considered desirable to make a grant of railway land whether for public, religious, educational or any other purpose, for which a lease of the land would not be feasible, the land should be granted on the following conditions, subject to the approval of the Railway Board :—

(i) that the property shall be liable to be resumed by Government if used for other than the specific purpose for which it is granted;

(ii) that, should the property be at any time resumed by Government, the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or, their present value, whichever shall be less, of any buildings erected or other works executed on the land by the grantees ;

(iii) that the Local Government have no objection to the proposed grant.*

These conditions are not exhaustive and in some cases they may not be sufficient to adequately safeguard the interests of Government or the railway. It is open therefore to a Local Government or the Government of India when making grants of land, to lay down such additional conditions as they may think fit, in order to secure the fulfilment of the purposes for which the grant is made. The deed of gift for the conveyance of the land in such cases should be as between the Secretary of State and the grantees, and should be drawn up by the Railway Administration making the grant, and submitted to the Local Government for execution on behalf of the Secretary of State.

SECTION VII.

Amount of land to be acquired.

43. In estimating for the amount of land to be taken up for a railway, care should be taken to make provision not only for the land which will be required permanently for the purposes of the open lines (such as those indicated on page 2 under 'Permanent Land'), but also for such land as will be required during construction only, for spoil-banks, side-cuttings, quarries, stacking and preparation of material, temporary offices, workshops and quarters, and for temporary purposes generally, to be relinquished after the work is completed.

44. Amount of land to be taken up—

(*a*) For lines over which traffic is likely to develop beyond the carrying capacity of a single line within 15 years after opening, the widths of land to be taken up should be those for a double line.

(*b*) For lines on which the traffic cannot reasonably be expected to grow beyond the carrying capacity of a single line within 15 years of opening, the widths of land to be acquired should be those for a single line.

For the purposes above, the minimum widths of land to be taken up should be, under ordinary circumstances, those shown in the sections and tables, Appendix A. The amount of permanent land will depend upon how many, if any, of the borrow-pits are to be retained after construction is completed.

* Cf. Resolution by the Government of India, Finance and Commerce Department, No. 914-A., dated 19th February 1902 (Appendix M).

The orders of the Railway Board should be obtained before reckoning widths on basis (*a*).

45. *Cancelled.*

46. At station yards the cutting or filling for the formation of the main line and sidings may sometimes be arranged for in the general levelling and improvement of the plot of ground to be permanently acquired. Where this cannot be done, provision should be made *outside* the proposed boundary of the station yard for such additional land as may be required for side cuttings or spoil-banks.* Special care should be taken to ensure that sufficient land is taken up at stations. This land should provide for any reasonable extension of the yard which may be expected in the future.

47. (Cancelled.)

48. In making provision for land for side-cuttings, the width will, under ordinary circumstances, depend upon the nature of the soil, height of bank, facilities for getting earth and other local conditions. Under special circumstances, as, for example, in the neighbourhood of large towns or where land is unusually expensive, it may be advisable to equalize the quantities for cutting and filling, and take the material for banks from the adjacent cuttings.

After a line has been opened, land is required from which earth can be dug for repairs to banks and this should always be acquired permanently.

It would not be economical to reserve land for all repairs between the bank and the original borrow-pits, because doing so would increase the lead and consequently the cost of all earth dug for construction of banks, but it is desirable to have a certain width of land from which earth can be dug for emergent repairs during or immediately after the monsoon when the borrow-pits may be full of water. Pits dug for such urgent repairs, inside the line of original borrow-pits, should not be more than 3 feet in depth and the width of land for such pits may be taken as equal to the height of bank.

The width of berm to be originally set out will therefore be 10 feet *plus* width required for urgent repairs (=height of bank). Provision has been made on this basis in the tables, Appendix A.

For 2′ 6″ gauge lines in mountainous country special arrangements for acquisition of land for borrow-pits to provide earth for construction and maintenance must be made.

Section VIII.

General arrangement, side-widths, etc.

Broad Gauge, single and double. Metre, single and double. 2′ 6″ single.

49. For the line between stations, the general arrangements for land shown in the sections, Appendix A, are to be followed.

The width of temporary land to be acquired for borrow-pits or spoil-banks cannot be laid down, as these depend on (1) nature of soil; (2) depth of sub-soil water; (3) price of land; (4) other local considerations. But for ordinary open country, where land is not unduly expensive and excavation to a depth of 6 feet is not undesirable owing to hard soil or sub-soil water

* In the case of station yards within or in the vicinity of large towns or other inhabited areas, it is desirable in the interests of sanitation that excavations, which are likely to prove noxious, should, as far as possible, be avoided or so arranged as to drain off completely.

met with, the widths shown in the tables in Appendix A will be found suitable for banks of 2 to 1 slope.

50. Where practicable, for low banks or shallow cuttings, the land taken up for side-cuttings or spoil-banks should be on one side of the line only. See Tables in Appendix A.

51. In setting out land for side-cuttings, arrangements should be made for berms at suitable intervals to allow of convenient access to the line during construction and to prevent the side-cuttings ultimately developing into water courses alongside the embankment. A width of 20 feet in a length of 200 feet is generally suitable for this purpose; that is to say, each excavation would be 180 feet long and separated from the next excavation by an interval of 20 feet of undisturbed earth. The tables, Appendix A, are calculated on the above dimensions.

52. In setting out land for spoil-banks, care should be taken to leave sufficient space for arrangements for drainage and for catch-water drains, where required, to prevent surface water from the adjacent land running down the slopes of the cutting. Land required for catch-water drains *outside* the line of spoil-bank will be additional to that shown in the Tables in Appendix A.

53. The sides of spoil-banks and side-cuttings next the line are to be sloped off (as shown in the sections, Appendix A) before the earth-work is finished and in setting out side-widths the distance allowed to the nearest part of the excavation or spoil-bank must be such as to preserve the specified width of strip of clear unbroken ground *after* this sloping has been carried out.

54. The slopes of sides of borrow-pits nearest the line should be the same as the slope adopted for embankments and this will generally be 2 to 1.

The slopes of the outer-side and of ends may be 1 to 1.

55. The slopes of spoil-bank should usually be 2 to 1.

56. A convenient height for spoil-bank is 5 feet and this has been adopted for tables in Appendix A.

57. In taking up land for embankments a strip 3 feet wide has been allowed for outside the outer edge of borrow-pits to enable the fence to be erected outside the borrow-pits if required.

Where the line is in cutting, the fence can be erected if required, at the outer toe of spoil-banks and no such strip is required.

58. In arranging the side-widths, the line for the fencing and for the inner edge of side cutting or spoil-bank should be continued straight in portions as long as practicable. That is to say, these lines should follow the *average* variation in height of bank or depth of cutting over considerable lengths and not be made to zig-zag to suit the local variation at each chain peg. Where the variation in side-widths would be comparatively unimportant, it will often be advisable to neglect such local variations entirely, and take up the land in a parallel strip for some distance.

Section IX.

Land Plans and Schedules.

59. To enable the Revenue authorities to take action for the acquisition of land required for railway purposes, it is necessary * that proper plans should be made for reference by all concerned.

* See Land Acquisition Act, 1894, Sections 6 and 8.

60. The scale for these land plans should, under ordinary circumstances, be 400 feet to 1 inch; but where this would not admit of sufficient detail being shown with clearness, the scale should be 100 feet to 1 inch. A scale of 50 feet to an inch may, however, be used in special cases for congested areas in large towns.

Note.—(*a*) This rule may be waived when the land to be acquired forms an addition to that already previously acquired. In such cases the plans showing additions may be drawn to the same scale as the original plans.

(*b*) In cases where the existing Revenue maps are not on a smaller scale than 400 feet to an inch they may, with the consent of the Local Government, be used for the preparation of land plans.

61. The *data* for the preparation of the land plans should generally be obtained during the progress of the survey for the location of the line, and the general instructions for the preparation of plans to accompany a project for a railway are to be held to apply also to plans required for the acquisition of the land necessary for the construction of the railway.

62. The following *additional* information is to be supplied on the land plans:—

(*a*) In the case of a railway to be constructed by Government, or by a Company under the terms of whose contract land is divided into two classes, 'permanent' and 'temporary,' the plans made out for the first acquisition of the land will show the outer boundary line and all land, for whatever purpose it may be required, will be taken up as for permanent occupation. This land will be distinguished on the land plans by being coloured pink.

N.B.—This rule applies only to the copies of the plans made for the Revenue authorities for use on the acquisition of the land, and is not intended to prevent Engineers from marking on their office copies the intended disposition of the land as 'permanent' and 'temporary' or any other information which may be found convenient for use during construction, or for the purpose of the estimate.

As early as practicable, after the line is opened, and it is known definitely what land can conveniently be relinquished, the original plans will be corrected (or fresh plans made) showing the boundaries of the land required for permanent occupation ('Permanent Land'), and also those of the land to be relinquished ('Temporary Land.') On these latter land plans, the two classes of land are to be distinguished by colour as follows:—

Permanent Land—Pink.

Temporary Land—Yellow.

(*b*) In the case of a railway constructed by a Company, by the terms of whose contract (or other arrangement with Government) land has to be taken up under special classes A, B, C and D or under other conditions of a like nature, the plans made out for the first acquisition of the land for use of the Revenue authorities will show the outer boundary line and will be distinguished in the land plans by being coloured pink and all land irrespective of the purpose for which required, will be taken up as for permanent occupation. The plans retained by the railway authorities, however, will show clearly the boundaries of the land to be taken up under *each* of these classes.

As early as practicable, after the line is opened, the original plans will be corrected (or fresh plans made), showing the disposition of the land as determined after the work of construction is completed.

On these land plans the four classes of land are to be distinguished by colour as follows :—

Class "A" Land—Pink.

Class "B" Land—Yellow.

Class "C" Land—Purple.

Class "D" Land—Green.

(*c*) Detached portions of land should be referred to some fixed point on one of the main sheets with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land. A corresponding entry should in each case be made on the nearest main sheet to draw attention to the detached plot.

(*d*) On all land plans, whether made out under clause (*a*) or under clause (*b*), the position of the boundary of each class of land is to be determined by dimensions written on the plan ; these dimensions to be sufficiently complete to enable such boundaries to be, at any time, readily ascertained or verified.

(*e*) The names of villages to which the land belongs are, in each case, to be written on the plan alongside of the line indicating the village boundary. If the boundary line crosses the railway line, the names are to be repeated on the other side of the railway line, and the chainage of the crossing point noted.

(*f*) When boundary marks have been erected for the demarcation of the land occupied by the railway, the position and corresponding number of each detached boundary mark is to be shown on the land plans.

The plans should in short be full and complete and should show all existing roads and buildings, and when the latter are known to be used for public purposes or by special departments, their purpose and ownership should be stated.

63. The Land Plans are to be made up in sets for continuous portions of land, each set being complete for a revenue district or charge of a Collector or Deputy Commissioner (or length of Native State). On each end sheet (first and last) of every set of land plans, a sufficient portion of the continuation sheet of the next set should be repeated, to enable the two sheets to be connected and traced together, if required. For each set of land plans the sheets are to be numbered consecutively throughout, and the name of the revenue district (or Native State) to which the set belongs, is to be marked conspicuously on *each* sheet.

64. The Schedules showing details of the land required may be drawn up in the forms numbered 1 to 3 printed in Appendix B ; these however are not prescribed as standard forms for adoption on all railways, as it is recognized that land tenures vary in different parts of India and that each Local Government on Administration may desire land schedules to be prepared in a form and with particulars to suit local conditions and local land revenue procedure. Railway Administrations should therefore prepare the land schedules in the form that may be required by each Local Government or Administration.

65. The minimum number of sets of land plans and Schedules required is two—one for the Revenue authorities and one for the Railway.

Page 177, *Appendix III, section* X, *paragraph* 70.—*For* "40. Subsidized Companies—Land" *substitute* "11. Subsidized Companies—Land."

[III list, 1–10–29]

66. Each set of land plans and schedules is to be signed by the officer immediately responsible for its preparation, and by the Chief Engineer or Engineer-in-Chief of the railway. In the case of land required for a line already opened, the Agent will also countersign the plans and schedules before sending them on.

67. Land plans are to be kept up to date either by adding to the existing plans or substituting new sheets as may be necessary. Each such addition or alteration is to be carefully checked by the officer in immediate charge of that portion of the railway, and attested by his signature. It is to be understood that the land plans at any date should show a clear and accurate record of the land occupied by the railway on that date.

68. A complete series of land plans for the whole line is to be kept in the office of the Chief Engineer of the railway.

SECTION X.

Adjustments of charges, Establishment and Capitalized abatement of land revenue.

Incidence of cost of land taken up at the cost of a railway.

69. Unless otherwise provided for under the terms of its contract, the cost of all land taken up permanently for a railway which is not entitled to receive land free of cost, is debitable to the capital account of the line irrespective of the amount involved or whether required for capital or revenue works. In the case of railways, worked by the State, land required for the manufacture of materials, as also for the acquisition of materials by quarrying, mining, boring or other operations and payments for royalty, mining rights, etc., connected with the same should not be included in land estimates, but may be dealt with as laid down in paragraph 147 of the State Railway Construction Code, or if more convenient, charged off finally to the work concerned. In the case of other railways such charges are included or excluded according to the terms of the contracts

Incidence of cost of land temporarily acquired at the cost of a railway.

The compensation payable however for land acquired temporarily under section 35 of the Land Acquisition Act, I of 1894, will be chargeable to the work or purpose concerned.

Incidence of cost of land taken up for railways entitled to receive land free of cost.

70. In the case of a railway constructed by a company or other body, under the terms of whose contract (or other arrangement with Government) land is granted free of cost by Government, the cost of all land will be borne by Government and charged to the head "40—Subsidized Companies, Land" and in the case of such Native State lines traversing British territory as are entitled to receive land free, the cost will be debited to the head "41—Miscellaneous Railway Expenditure". Where land is taken up under Classes A, B, C and D as defined in paragraph 4 (*b*) of these rules, or under other conditions of a like nature Class C land will be acquired by Government at the cost of the railway concerned.

Adjustments in the case of transfer and relinquishment of State lands.

71. The following rules regulate the adjustments as regards the value of State lands and buildings transferred from one Department of the Imperial Government to another*:—

(i) If any State land or building in the occupation of a Local Government is transferred to the Government of India or vice versa, the amount of

* Vide Resolution by the Government of India, Finance Department, No. 295-A., dated 19th January 1910 (Appendix L).

compensation, if any, to be paid from Imperial to Provincial revenues or vice versa shall be determined with due regard to the circumstances in which the occupation of the property originated and to the expense which the transferring Government has to incur as a direct consequence of the transfer.

(ii) When any land or building is transferred from one Department of the Government of India to another, the transfer shall be free of all charge, save as provided for in the following sub-paragraph, viz. :—

If any land or building is transferred to or from a Commercial Department for which regular revenue and capital accounts are kept, the full market value of the land or building transferred shall be debited or credited, as the case may be, to such department. It may be explained that by the term "Commercial Department" are understood the Railway and the Irrigation (major works) Departments, and Minor Irrigation works for which regular capital and revenue accounts are kept.

72. With regard to land transferred by other Government Departments to railways, it should be borne in mind that a Department of the Government of India has no property in land, its interest being confined merely to a right of occupation and user; consequently when land is no longer neede[d] or is likely to be needed by the department in whose possession it is, i[t] reverts to the administration of the Local Government and therefore in n[o] circumstances can a *quid pro quo* be claimed by the department concerned for such lands. The full market value of such land will accordingly b[e] debited to the capital account of the railway to which it is transferred and in the case of Railway Companies receiving land free of cost, to th[e] head "40—Subsidized Companies, Land". The necessary credit in such cases will be regulated in accordance with the schedule annexed to Govern[-]ment of India, Finance Department, Resolution No. 2816-A., dated the 10th May 1912 (vide Appendix E).

73. With regard to railway land which is made over to the Revenue Authorities for disposal, the sale-proceeds of such land will be credited to the capital account of a railway where the cost of the land was originally charged to the capital account of the railway, and to the head "XXVIII—Subsidized Companies" where the cost of the land was originally charged to "40—Subsidized Companies, Land." For purposes of convenience, an abstract has been framed (vide Appendix F) and issued in Railway Board's Resolution No. 285-F-17, dated 8th May 1918, which shows concisely the classification of railways and the bases on which the adjustments in accounts referred to above should be carried out in connexion with land acquired for, transferred, or relinquished by railways. These instructions should be carefully observed in making the adjustments.

74. In this connexion it may be explained that the term "market value" means the actual cost of acquiring the land; it includes compensation payable to the owners or occupiers of land acquired either permanently or temporarily for the purposes of the railway, including payments for houses, trees, crops or other property situated on such land, compensation for damage, loss or injury caused to adjacent property by operations incidental to the construction of the railway, salaries, fees, allowances, etc., of civil officers and other persons deputed for, or employed on, the valuation, transfer or demarcation of land where otherwise admissible under the rules; also all charges connected with the temporary marks necessary to enable the Revenue

Page 179, *Appendix III, section X, paragraph* 75.—(i) *For* "40. Subsidized Companies, Land" *substitute* "11. Subsidized Companies—Land."

(ii) *Paragraph* 77.—*For* "40. Subsidized Companies, Land —Provincial" *substitute* "11. Subsidized Companies—Land."

[III list, 1-10-29]

Page 178, *Appendix III, section X, paragraph* 72.—(i) *For* "40. Subsidized Companies, Land" *substitute* "11. Subsidized Companies—Land."

(ii) *Paragraph* 73.—*For* "XXVIII. Subsidized Companies" and "40. Subsidized Companies, Land" *substitute* "XII. Subsidized Companies" and "11. Subsidized Companies—Land," respectively.

[III list, 1-10-29]

Authorities to determine the boundaries. Permanent boundary marks should be estimated under V (*a*)—Fencing.

N.B.—In the case of Government owned land "market value" means the value which the land will fetch if sold in open market irrespective of the cost incurred in acquiring it. When such land is transferred to a railway full market value should be debited to the capital account of the railway.

Land for railway works undertaken for famine relief.

75. Where land is taken up for an unsanctioned railway which is undertaken for the purpose of affording employment to people as famine relief, all expenditure incurred in connexion with the setting out, demarcation and acquisition of the land shall form a charge against the head "41—Miscellaneous Railway Expenditure" until such time as sanction to the Railway project is accorded, when it should be brought on to the capital account of the project or to the head of accounts "40—Subsidized Companies, Land" as the case may be.

Adjustment of rents accruing from railway lands.

76. Rents accruing from railway lands leased or granted under a licence by a railway should be credited to the revenues of the railway in whose occupation the land is. In the case of railway lands made over to the Revenue Authorities, any rent realized from the temporary lease of such lands should be treated as "Land Revenue".

Incidence of cost of land supplied by Local Governments free of cost to railways.

77. With regard to land which is supplied free of cost to a railway by a Local Government, the cost of all such land is chargeable to the head "40—Subsidized Companies, Land—Provincial" and all applications for sanction to such expenditure should be submitted to the Local Government concerned.

Capitalized value of the abatement of land revenue.

78. When land which is revenue-paying is taken up for a railway, the capitalized value of the abatement of existing land revenue should be included in the estimate of cost only in the case of State railways worked by Companies. Fuller instructions as to the inclusion or exclusion of the capitalized value of the abatement of land revenue will be found in the abstract of orders promulgated with Railway Board's Resolution No. 285-F-17, dated 8th May 1918 (Appendix F).

78A. In this connexion it may be explained that the expression "existing land revenue" as used in the Railway Board's Resolution No. 412-F-18, dated the 15th May 1919, should be taken to bear the following meaning :—

For Government lands not assessed to revenue.—In cases in which it can be shown that there is an immediate prospect of the receipt of land revenue, and in cases where, as in Madras, unassessed lands are always assessed before assignment, it is justifiable, for the purpose of calculating the capitalized abatement of land revenue, to assume a revenue rate equal to the rate payable at the time on similar lands in the neighbourhood. When, however, this prospect is not immediate, or the matter appears to be open to some doubt, no prospective land revenue should be taken for the purpose of this calculation.

For Government lands assessed to revenue.—In cases in which it can be shown that there is an immediate prospect of a substantial increase in the revenue, the adoption of the prospective increased revenue rate is permissible. When, however, this prospect is not immediate, or the matter appears to

be open to some doubt the existing revenue only should be taken for the purpose of this calculation.

Capitalized value of land revenue in lieu of abatement.

79. In cases in which any portion of the land acquired forms part of an estate, the Revenue Authorities,—in provinces in which the procedure is in vogue,—are competent, if the proprietor of the estate so desires it, to pay to the proprietor direct the computed value of the revenue deemed payable in respect of such portion, on condition that he continues to pay the revenue of the entire estate without abatement. The amount so paid to a proprietor direct in lieu of the abatement of land revenue, should be included in the cost of the land, irrespective of the source from which the cost is met.

Establishment and Contingencies.

80. The entire cost of any special establishment which may be entertained under the orders of Government for the purposes of acquisition is included in the cost of land when the Special Land Acquisition Officer acts as a Public Works Disburser. The "entire cost" includes not only the salary and allowances of the staff so employed, but also the contributions for their pension and leave allowances, the latter forming part of the "charges of, and incidental to, the acquisition", under section 50 (1) of the Land Acquisition Act, I of 1894.

81. Contingent charges incurred in connexion with the acquisition of land for a railway are adjusted in the same way as establishment charges. It should be noted however that no portion of the cost of any establishment employed by a railway in connexion with the indication of the areas required for acquisition, the drawing up of land plans, schedules, etc., should be included in that of the land, but should be charged off separately to the work concerned.

SECTION XI.

Procedure for acquisition of land in Indian States.

82. When land is required in Indian State territory for the purposes of State railways proper or railways worked by Companies, application should be made to the Political Officer concerned. The procedure to be adopted in making such applications will be the same mutatis mutandis as that laid down with regard to land to be taken up in British territory. In no case should land in an Indian State be entered upon or damage done to trees or property in advance of formal sanction without securing through the Local Political Officer the written consent of the Darbar concerned.

Procedure for acquisition of land in British territory for Indian State Railways.

83. In the case of railways constructed at the cost of Indian States requiring land in British territory, application should be made direct to the Local Government, or Administration in whose territory the land is required, provided that the work for which the land is required has been duly sanctioned by the Government of India where such sanction is necessary. The Revenue Authorities will take the same steps for the acquisition of the land as are laid down with respect to land for Government State Railways or Companies' lines in British India.

Principles and procedure to be observed on payment of compensation.

84. When land in British territory is required for the purposes of a railway constructed or to be constructed by or at the expense of an Indian State, such land as is in private ownership will be acquired by the British Revenue Authorities as for a public purpose, under

Page 180, *Part IV*, *Appendix III*, *Section X*, *paragraph* 80.—*For* the existing paragraph *substitute* the following :—

Establishment and contingencies.

The entire cost of any special establishment which may be entertained under the orders of Government for the purposes of acquisition is included in the cost of the land when the Special Land Acquisition Officer acts as a Public Works Disburser. The "entire cost" includes not only the salary and allowances of the staff so employed, but also, when conrtibutions for their pensions and leave allowances are payable under the rules for the time being in force, such contributions which will then form part of the "charges of, and incidental to, the acquisition" under section 50 (1) of the Land Acquisition Act I of 1894

[9th list, 18-9-30]

Page 180, *Part IV, Appendix III, section X, paragraph* 80 —
For "when the Special Land Acquisition Officer acts as a Public Works Disburser" *substitute* "whether incurred by Civil or Public Works Disbursing Officers."

(G.O. No. 279 Ry. Ms., dated 31-1-31.)

[XV list, 31-1-31]

the provisions of the Land Acquisition Act. The State will be required to pay, as compensation for the land made over to it, the actual amount of the awards paid in the case of private land, and, in the case of Government land, the full market value *plus* such incidental items of expenditure as the cost of establishment, demarcation, stationery. The State will also be required to pay compensation for the value of extinguished land revenue, the amount to be settled by negotiation in individual cases, due regard being had to the indirect advantages accruing to the British Government from the railway. Where differences of opinion occur between the State concerned and the local revenue authorities as to the compensation payable a Board of Arbitration will be appointed consisting of one member appointed by the State, another by the Government of India (or by the Local Government in the case of a State which is in direct relations with a Local Government), and a third member appointed by mutual consent and their decision shall be final—

(i) Before making an award in the case of private land in British territory to be acquired for a State, or fixing the amount of compensation in the case of Government land, the responsible officer will be required to send all necessary details, together with the estimates of the amounts payable, to the State and to give every facility for checking them to the officer or the officers concerned for the purpose, and to take into consideration any representation which such officer or any other duly accredited representative of the Darbar may make, whether orally or by letter. Such officers or representatives should be afforded an opportunity of appearing in person or by agent and of producing evidence as to the value of the land before any award relating to it is made or the amount of compensation is fixed.

(ii) When land is required in State territory for the purposes of British railways proper the general principle to be observed shall be that the same degree of compensation shall be paid to the State concerned as is payable by State under the provisions of the preceding clauses. Where the terms of an existing contract with a Railway Company provide that the Secretary of State will use his good offices to secure the provision of land in State territory free of cost the question whether compensation will be paid or not will be left for negotiation between the political authorities and the State concerned. Conditions of this nature will be avoided in future contracts.

(iii) In the case of land originally granted free by a State to a railway being relinquished to that State for its own railway purpose, the railway will have no claim to compensation in respect of the value of such land.

(iv) In order to give effect to these general principles, the following procedure shall be observed :—

In cases in which it is proposed to acquire private rights in land in a State for railway purposes, the proceedings, where the State concerned has enacted a Land Acquisition Act, will be under that law, and the provisions of paragraph 84 (i) will apply mutatis mutandis When there is no Land Acquisition Act or where the State itself owns or has rights in the land, which it is proposed to acquire, the estimates of the amount payable will be framed by the State authorities and forwarded to the Railway Administration concerned, who will be afforded the facilities specified in paragraph 84 (i) for checking the estimate. If such estimates are accepted by the Railway Administration, they will be treated as a settlement. Where, however, differences of opinion occur between the State authorities

and the Railway Administration concerned as to the compensation payable arbitration will take place. If both parties signify in writing their consent to such a course, the Political Officer concerned will be appointed as arbiter and his decision shall be final. In other cases the compensation payable shall be assessed by a Board of Arbitration consisting of one member appointed by the State, another by the Government of India or the Local Government in the case of a State which is in direct relations with a Local Government, and a third member appointed by mutual consent, and their decision shall be final. In these latter cases the Board of Arbitration will decide the incidence of the cost of arbitration.

(v) In determining the amount of compensation payable, Political Officers and other arbiters will be guided by the general principle that the amount shall be equivalent to what would have been payable by the State had acquisition taken place in British territory and had compensation been assessed in the manner laid down in paragraph 84 supra.

(vi) When a railway is constructed by a State or States in British territory the State or States concerned will have precisely the same rights as any other Railway Administration in British territory * in the matter of quarrying stone or excavating material required for the purposes of, or in connexion with the railways. †

† Works for the purposes of, or in connexion with, a railway are detailed generally in sections 7, 8, 9, 11, 12, 13, 14 and 51 of the Indian Railways Act, 1890 (IX of 1890).

(vii) When a Government railway or a railway worked by a Company, or by a State or States, is constructed in State territory, the general principle to be observed will be that such a railway shall enjoy the same rights as regards quarrying stone or excavating material as a railway would be entitled to in British territory, * the rates of royalty payable being determined in

* NOTE.—The practice in British territory in regard to quarrying stone or excavating material required for railway purposes is as follows:—

(a) On the standard strip of land ordinarily acquired by a Railway Administration for permanent occupation, i.e, for the emplacement of the actual railway, and its appurtenances, such as station buildings, platforms, yards, workshops, etc., the question of quarrying rights or payment of royalty does not arise, inasmuch as quarrying as such is impracticable on such land, while material set free in the course of construction is utilized by the railway for its own purposes free of royalty. For land widths ordinarily acquired for the railway proper (other than at stations and terminals) see sections VII and VIII and Appendix A of the rules for acquisition of land for railways (enclosure to Railway Board's Circular No. 889-P.—16, dated the 30th August 1918).

(b) With the exception of the above title to the free use of materials set free in the course of construction on the standard strip of land acquired for the emplacement of the railway, the acquisition of land in general carries with it only the surface rights unless the mineral rights are bought out at the same time under the Land Acquisition (Mines) Act of 1885 (XVIII of 1885). Where surface rights only are acquired, a Railway Administration may not quarry stone outside the above standard strip except with the previous consent of the owner, and on payment of royalty where such is ordinarily levied.

(c) Mining rights other than those in respect of material met with in course of construction remain with the original owner. Where Government is the original owner, the mining rights are not exercised within the width of 50 yards on either side of the railway measured from the outer toe of bank or outer edge of cutting. Where the mining rights are in private ownership, the owner cannot extend any mining operations under his control at or to any point within 50 yards of a railway, except with the previous sanction of the Governor-General in Council or some officer authorized by him in that behalf or otherwise than in accordance with such instructions, restrictions and conditions, either general or special, which may be attached to such sanction—vide in this connexion section 20 of the Indian Mines Act, 1901 (VIII of 1901).

(d) When land is acquired definitely for quarrying purposes, it is open to a Railway Administration to arrange with the owner for securing the whole of the underlying minerals by payment of extra compensation therefor, under the provisions of the Land Acquisition (Mines) Act, 1885 (XVIII of 1885).

accordance with the rules in force in the State. In cases where there are no such rules, or where the railway authorities consider that the rates under State rules are unduly high, resort will be had to arbitration in the manner provided in paragraph 84 (iv) above—See note to paragraph 84 (vi).

(viii) Where land outside the regular and widths, as prescribed in sections VII and VIII and Appendix A in the rules for the acquisition of land for railways (enclosure to Railway Board's Circular No. 889-P.—16, dated 30th August 1918), is required for temporary occupation, the procedure in British India will be under Part VI of the Land Acquisition Act, and in the States in which a law on the same lines is in force under that law. In cases where there is no such law, the terms of occupation and use will be settled by mutual agreement; and in the case of dispute as to the terms, by arbitration in the manner prescribed in paragraph 84 (iv).

Transfer, relinquishment or leasing of railway lands in Indian States.

85. With regard to the transfer, relinquishment or leasing of railway lands in Indian States the same principles and rules laid down as regards railway lands in British territory should be observed except that in these cases the Political Officer should be moved to take the necessary action. In cases of transfer where the land involved was originally made over for the use of a particular railway, the consent of the Darbar should be obtained to the transfer of such land to another railway. Where lands, however, have been surrendered by Indian State to the Secretary of State for railway purposes in general, the consent of the Indian State concerned to the transfer of such land from one Railway Administration to another or to any other body is not necessary, so long as the land is being utilized for a bona fide railway purpose.

86. The leasing of railway lands in Indian State territory requires the consent of the Darbar only where the lease is for a purpose not connected with the railway. The rents accruing from the lease of railway lands in Indian State territory will be credited to the railway except in cases where the land having been granted free of cost by Indian State is leased for a purpose unconnected with that of the railway. It should be noted that railway land used for tanks for receiving and storing oil pending its removal by the consignee is held to be land used for a bona fide railway purpose. No sales of bulk oil should however be allowed on railway premises without the consent of the Political Officer and the Darbar concerned.

SECTION XII.

Miscellaneous.

Demarcation of land.

87. The following rules for the demarcation of land have been laid down by the Government of India under section 13 (*a*) of the Indian Railways Act, IX of 1890:—

(*a*) All land permanently occupied for the purposes of a Railway shall have its boundaries defined on the ground in such a manner as to enable such boundaries to be readily ascertained and identified.

(*b*) For this purpose the boundary of the railway land may be defined by a continuous wall, fence or ditch, or by detatched marks, posts or pillars.

(*c*) Where the boundary mark is continuous, the boundary of the railway land is to be on the outer edge of the wall, fence or ditch, that is to say, the wall, fence or ditch will be situated wholly on railway land.

(*d*) Where detached marks, such as isolated posts or pillars are used, the boundary of the railway land will pass along the outside of such posts and pillars. Between the marks the boundary will in each case be taken in a straight line from the outside of one mark to the outside of the next mark.

(*e*) Detached marks are in no case to be at a greater distance apart (centre to centre) than one-eighth of a mile (660 feet). They are to be of a substantial character, not easily destroyed or moved by accident or mischief, and are to be of such size and form as to be readily found and recognized.

(*f*) Each detached boundary mark is to bear a number, and the position and corresponding number of each detached boundary mark is to be shown on the land plan.

(*g*) Where a fence, wall, or ditch is situated at some distance within the boundary and does not mark the actual limit of the railway land, it will be necessary that, in addition to such fence, wall, or ditch, the actual boundary of the railway land shall be properly marked and defined in accordance with these rules.

88 In the case of a railway constructed by a company receiving land free of cost, to whom the classification defined in paragraph 4 (*b*), section I above applies, the expression "land permanently occupied" is intended to include not only class "A" land, but also such class "B" and class "C" land as may be required for a considerable period. In the event of any class "B" or class "C" land enclosed by the boundary being afterwards relinquished, the boundary should be shifted to mark the new limit.

89. Each railway administration is responsile for the maintenance of proper records in connexion with the demarcation of all railway land in its possession.

Land for assisted sidings.

90. The land required for an assisted siding outside the railway boundaries will be acquired under the Land Acquisition Act by the railway administration which undertakes the construction of the siding at the cost of the applicants for the siding. An estimate of the cost of the land which will be prepared by the railway administration will be sent to the applicants who must deposit the amount before any steps are taken for the acquisition of the land. The applicants must also agree to pay on demand such excess cost, if any, as may be incurred in the acquisition of the land. Land so acquired will vest absolutely in the Secretary of State and the applicants for the siding will have no right or claims thereto.

Land for railway cemeteries.

91. A State Railway or a Company requiring land in connexion with the construction of a railway cemetery should apply to the Local Government or Administration, who will make the necessary arrangements to place the land required at the disposal of the railway administration. It is open to a Local Government or Administration to grant such land free of cost or to claim payment of the market value thereof from the railway concerned. In no case should an application be made to a Local Government or Administration for land, until the cemetery for which the land is required has been approved and sanctioned by the Railway Board, and it is left to the discretion of a Local Government to determine the exact area of land that should be granted.

Construction of armouries and quarters for Sergeant Instructors of Volunteer Corps on railway lands.*

92. Where it is not possible to build armouries within the precincts of a workshop, there is no objection to both armouries and quarters for Sergeant Instructors of Railway Volunteer Corps being built on railway land in one block, a separate entrance being provided for each. Where armouries happen to be built separately or situated in existing blocks, i.e., in Engine sheds, Workshops, Stores, etc., quarters for Sergeant Instructors may be constructed on railway land close to the armouries. It must be understood, however, that quarters for Sergeant Instructors, when built on railway land, shall be subject to the same conditions as at present apply to armouries, that is, the land occupied by the quarters shall remain the property of the railway administration and no rent shall be charged for it, but with the additional proviso that all buildings so built must be taken over by the railway administration concerned at a fair valuation in the event of the Sergeant Instructors being withdrawn or their headquarters being changed.

Legal proceedings.

93. When a point of law is at issue in connexion with any land acquisition proceedings, the Local Government or Administration should be consulted before legal proceedings are entered upon.

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* Vide Railway Board's Circular No. 701, R.C., dated 3rd March 1909.

SUB-ENCLOSURES.

APPENDIX A.

Schedule of land widths to be taken up for a single line in bank 5 feet 6 inches gauge.

Height of bank.	Centre line to toe of slope.	Berm.		Width at top of borrow-pit.	Add outside pits to allow of erection of fence.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of pits.
		One side.	Other side.			One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0	10	10	10	..	..	20	20	40	Pits on one side ..	..
1	12	11	10	14	3	40	22	62	Do	2
2	14	12	10	30	3	59	24	83	Do.	2
3 ..	16	13	10	34	3	66	26	92	Do.	3
4	18	14	10	47	3	82	28	110	Do.	3
5	20	15	10	61	3	99	30	129	Do.	3
6	22	16	10	61	3	102	32	134	Do.	4
7 .. .	24	17	10	74	3	118	34	152	Do.	4
8	26	18	10	88	3	135	36	171	Do.	4
9	28	19	19	47	3	97	97	194	Pits on both sides.	5
10	30	20	20	53	3	106	106	212	Do.	5
11	32	21	21	60	3	116	116	232	Do.	5
12	34	22	22	68	3	127	127	254	Do.	5
13	36	23	23	76	3	138	138	276	Do.	5
14	38	24	24	84	3	149	149	298	Do.	5
15	40	25	25	93	3	161	161	322	Do.	5
16	42	26	26	103	3	174	174	348	Do.	5
17	44	27	27	113	3	187	187	374	Do.	5
18	46	28	28	123	3	200	200	400	Do.	5
19	48	28	28	133	3	212	212	424	Do.	5
20	50	28	28	145	3	226	226	452	Do.	5
21	52	28	28	134	3	217	217	434	Do.	6
22	54	28	28	144	3	229	229	458	Do.	6
23	56	28	28	154	3	241	249	482	Do.	6
24	58	28	28	165	3	254	254	508	Do.	6
25	60	28	28	177	3	268	268	536	Do.	6
26	62	28	28	188	3	281	281	562	Do.	6
27	64	28	28	200	3	295	295	590	Do.	6
28	66	28	28	213	3	310	310	620	Do.	6
29	68	28	28	226	3	325	325	650	Do.	6
30	70	28	28	239	3	340	340	680	Do.	6

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP.

5 FT 6 IN GAUGE.

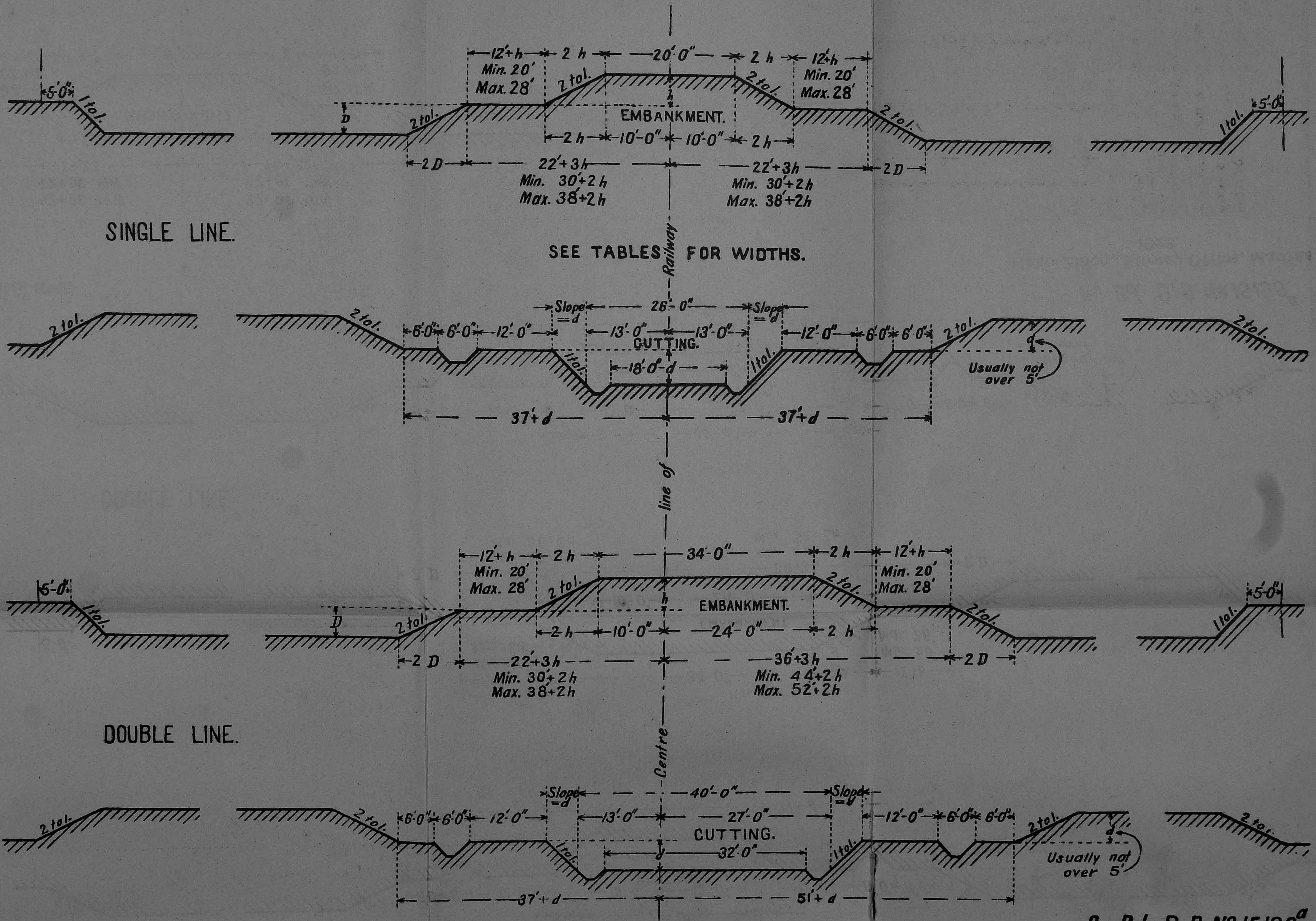
Scale—1/16 inch to 1 foot.

(Orders relating to acquisition of land).

APPENDIX A.

feet 16 8 0 16 32 feet

(1913)



Reg. No. 223/1 Copies 1065

Ry. Bd. D. B. No. 15196.[a]

Helio-Zinco., Survey Office, Madras.
1928.

Schedule of land widths to be taken up for a single line in cutting 5 feet 6 inches gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	13	10	10	0	23	23	46	Spoil-banks on one side.	feet.
1	14	11	10	15	40	24	64	Do.	Do.
2	15	12	10	21	48	25	73	Do.	Do.
3	16	13	10	27	56	26	82	Do.	Do.
4	17	14	10	34	65	27	92	Do.	Do.
5	18	15	10	41	74	28	102	Do.	Do.
6	19	16	10	48	83	29	112	Do.	Do.
7	20	17	10	56	93	30	123	Do.	Do.
8	21	18	10	64	103	31	134	Do.	Do.
9	22	19	19	42	83	83	166	Spoil-banks on both sides.	Do.
10	23	20	20	46	89	89	178	Do.	Do.
11	24	21	21	51	96	96	192	Do.	Do.
12	25	22	22	56	103	103	206	Do.	Do.
13	26	23	23	61	110	110	220	Do.	Do.
14	27	24	24	66	117	117	234	Do.	Do.
15	28	24	24	72	124	124	248	Do.	Do.
16	29	24	24	77	131	131	262	Do.	Do.
17	30	24	24	83	138	138	276	Do.	Do.
18	31	24	24	89	145	145	290	Do.	Do.
19	32	24	24	96	152	152	304	Do.	Do.
20	33	24	24	102	159	159	318	Do.	Do.
21	34	24	24	109	167	167	334	Do.	Do.
22	35	24	24	116	175	175	350	Do.	Do.
23	36	24	24	123	183	183	366	Do.	Do.
24	37	24	24	130	191	191	382	Do.	Do.
25	38	24	24	138	200	200	400	Do.	Do.
26	39	24	24	145	208	208	416	Do.	Do.
27	40	24	24	153	217	217	434	Do.	Do.
28	41	24	24	161	226	226	452	Do.	Do.
29	42	24	24	170	236	236	472	Do.	Do.
30	43	24	24	178	245	245	490	Do.	Do.

Schedule of land widths to be taken up for a single line in bank Metre Gauge.

Height of bank.	Centre line to toe of slope.	Ferm.		Width at top of borrow pit.	Add out-side pits to allow of erection of fence.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of pits.
		One side.	Other side.			One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0	8	10	10	..	..	18	18	36	Pits on one side.	..
1	10	11	10	13	3	37	20	57	Do.	2
2	12	12	10	25	3	52	22	74	Do.	2
3	14	13	10	29	3	59	24	83	Do.	3
4	16	14	10	41	3	74	26	100	Do.	3
5	18	15	10	53	3	89	28	117	Do.	3
6	20	16	10	54	2	93	30	123	Do.	4
7	22	17	10	66	3	108	32	140	Do.	4
8	24	18	10	79	3	124	34	158	Do.	4
9	26	19	19	43	3	91	91	182	Pits on both sides.	5
10	28	20	20	49	3	100	100	200	Do.	5
11	30	21	21	55	3	109	109	218	Do.	5
12	32	22	22	62	3	119	119	238	Do.	5
13	34	23	23	70	3	130	130	260	Do.	5
14	36	24	24	78	3	141	141	282	Do.	5
15	38	25	25	86	3	152	152	304	Do.	5
16	40	26	26	95	3	164	164	328	Do.	5
17	42	27	27	105	3	177	177	354	Do.	5
18	44	28	28	115	3	190	190	380	Do.	5
19	46	28	28	125	3	202	202	404	Do.	5
20	48	28	28	136	3	215	215	430	Do.	5
21	50	28	28	126	3	207	207	414	Do.	6
22	52	28	28	135	3	218	218	436	Do.	6
23	54	28	28	145	3	230	230	460	Do.	6
24	56	28	28	156	3	243	243	486	Do.	6
25	58	28	28	167	3	256	256	512	Do.	6
26	60	28	28	178	3	269	269	538	Do.	6
27	62	28	28	190	3	283	283	566	Do.	6
28	64	28	28	202	3	297	297	594	Do.	6
29	66	28	28	215	3	312	312	624	Do.	6
30	68	28	28	227	3	326	326	652	Do.	6

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP.

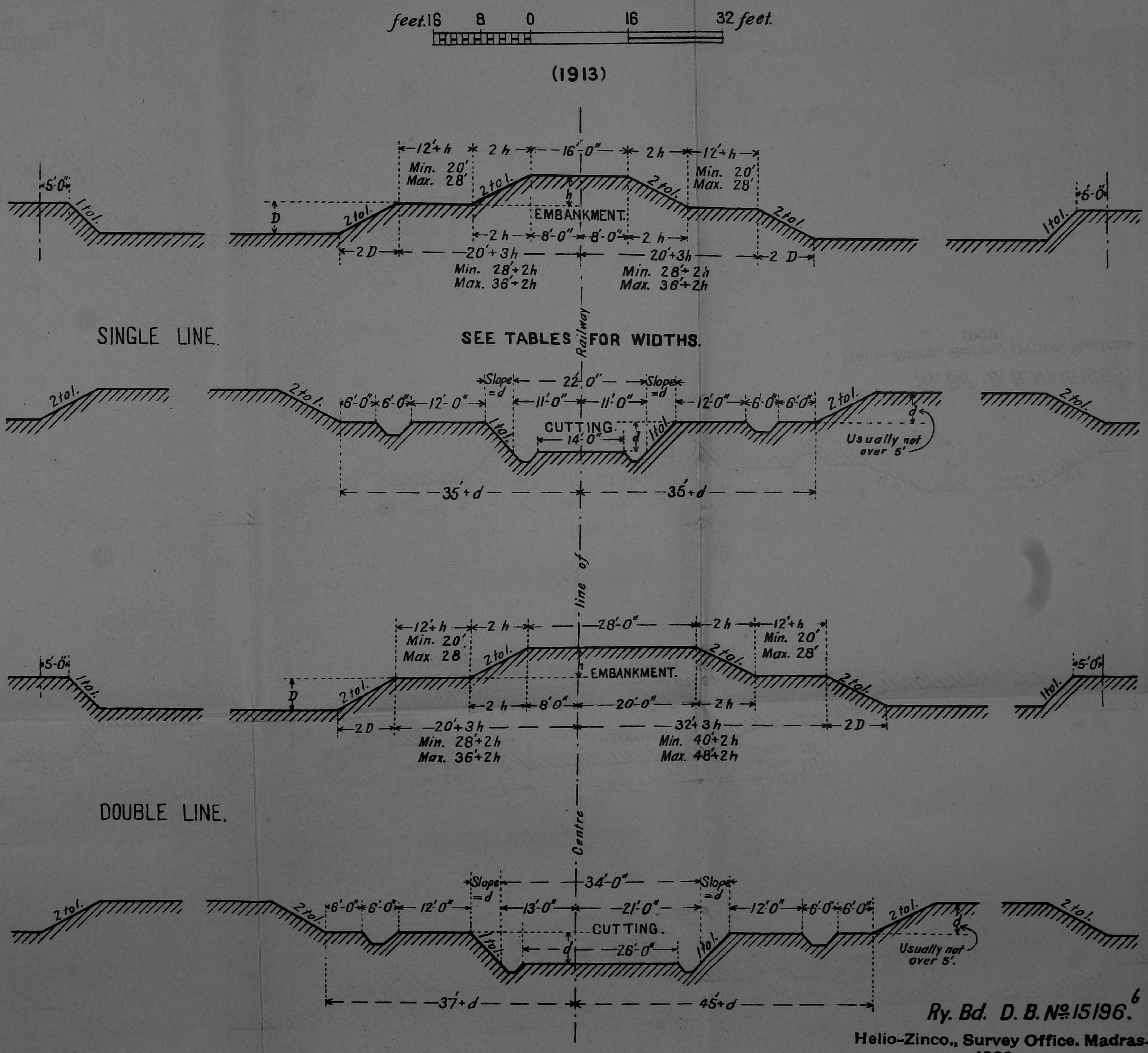
METRE GAUGE.

Scale — 1/16 inch to 1 foot.

(Orders relating to acquisition of land)

APPENDIX A.

(1913)



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Ry. Bd. D. B. No. 15196. 6

Helio-Zinco., Survey Office. Madras. 1928.

Schedule of land width to be taken up for a single line in cutting Meter Gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	11	10	10	..	21	21	42	Spoil banks on one side.	5 feet.
1	12	11	10	15	38	22	60	Do.	Do.
2	13	12	10	20	45	23	68	Do.	Do.
3	14	13	10	25	52	24	76	Do.	Do.
4	15	14	10	31	60	25	85	Do.	Do.
5	16	15	10	37	68	26	94	Do.	Do.
6	17	16	10	44	77	27	104	Do.	Do.
7	18	17	10	51	86	28	114	Do.	Do.
8	19	18	10	58	95	29	124	Do.	Do.
9	20	19	19	38	77	77	154	Spoil banks on both sides.	Do.
10	21	20	20	42	83	83	166	Do.	Do.
11	22	21	21	46	89	89	178	Do.	Do.
12	23	22	22	51	96	96	192	Do.	Do.
13	24	23	23	56	103	103	266	Do	Do.
14	25	24	24	61	110	110	220	Do.	Do.
15	26	24	24	66	116	116	132	Do.	Do.
16	27	24	24	71	122	122	244	Do.	Do.
17	28	24	24	76	128	128	256	Do.	Do.
18	29	24	24	82	135	134	270	Do.	Do.
19	30	24	24	88	142	142	284	Do.	Do.
20	31	24	24	94	149	149	298	Do.	Do.
21	32	24	24	100	156	156	312	Do.	Do.
22	33	24	24	107	164	164	328	Do.	Do.
23	34	24	24	114	172	172	344	Do.	Do.
24	35	24	24	121	180	180	360	Do.	Do.
25	36	24	24	128	188	188	376	Do.	Do.
26	37	24	24	135	196	196	392	Do.	Do.
27	38	24	24	142	204	204	408	Do.	Do.
28	39	24	24	150	213	213	426	Do.	Do.
29	40	24	24	158	222	222	444	Do.	Do.
30	41	24	24	166	231	231	462	Do.	Do.

Schedule of land widths to be taken up for a single line in bank 2 feet 6 inches gauge.

Height of bank.	Centre line to toe of slope.	Berm.		Width at top of borrow pit.	Add outside pits to allow of erection of fence.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of pits.
		One side.	Other side.			One side.	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0	6	10	10	..	3	16	16	32	Pits on one side.	..
1	8	11	10	11	3	33	18	51	Do.	2
2	10	12	10	21	3	46	20	66	Do.	2
3	12	13	10	25	3	53	22	75	Do.	3
4	14	14	10	35	3	66	24	90	Do.	3
5	16	14	10	46	3	79	26	105	Do.	3
6	18	14	10	47	3	82	28	110	Do.	4
7	20	14	10	58	3	95	30	125	Do.	4
8	22	14	10	70	3	109	32	141	Do.	4
9	24	14	14	38	3	79	79	158	Pits on both sides.	5
10	26	14	14	44	3	87	87	174	Do.	5
11	28	14	14	50	3	95	95	190	Do.	5
12	30	14	14	57	3	104	104	208	Do.	5
13	32	14	14	64	3	113	113	226	Do.	5
14	34	14	14	72	3	123	123	246	Do.	5
15	36	14	14	80	3	133	133	266	Do.	5
16	38	14	14	88	3	143	143	286	Do.	5
17	40	14	14	97	3	154	154	308	Do.	5
18	42	14	14	106	3	165	165	330	Do.	5
19	44	14	14	116	3	177	177	354	Do.	5
20	46	14	14	126	3	189	189	378	Do.	5
21	48	14	14	118	3	183	183	366	Do.	6
22	50	14	14	127	3	194	194	388	Do.	6
23	52	14	14	137	3	206	206	412	Do.	6
24	54	14	14	147	3	218	218	436	Do.	6
25	56	14	14	157	3	230	230	460	Do.	6
26	58	14	14	168	3	243	243	486	Do.	6
27	60	14	14	180	3	257	257	514	Do.	6
28	62	14	14	191	3	270	270	540	Do.	6
29	64	14	14	203	3	284	284	568	Do.	6
30	66	14	14	216	3	299	299	598	Do.	6

GENERAL CROSS SECTIONS

SHOWING WIDTHS OF LAND TO BE TAKEN UP.

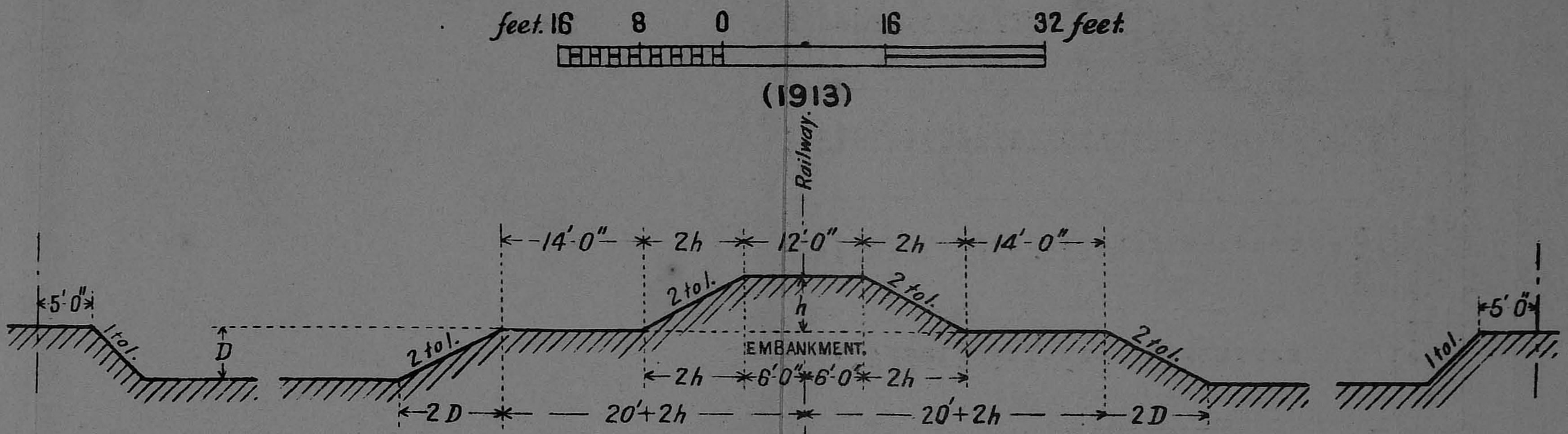
2 FT 6 IN GAUGE.

Scale—1/16 inch to 1 foot.

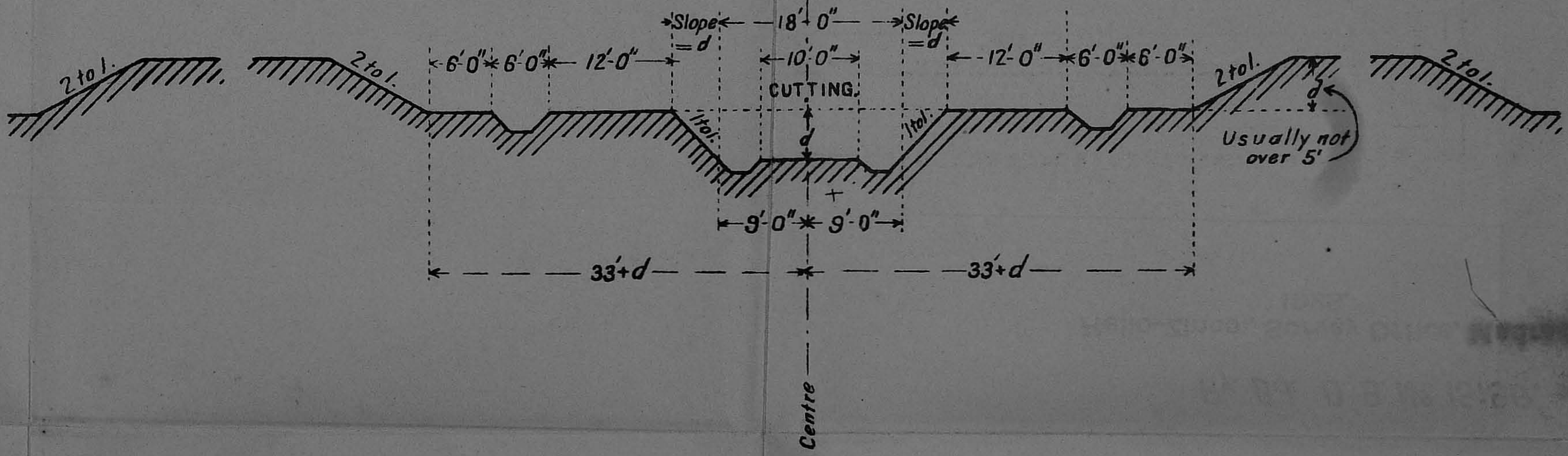
(Orders relating to acquisition of land).

APPENDIX A.

(1913)



SINGLE LINE.



Ry. Bd. D. B. No. 15196.c

Reg. No. 223/3 Copies 1065

Helio-Zinco., Survey Office, Madras.
1928.

Schedule of land width to be taken up for a single line in cutting 2 feet 6 inches gauge.

Depth of cutting.	Half width at top of cutting.	Berm.		Width at bottom of spoil bank.	Width from centre line to boundary.		Total width of land.	Remarks.	Depth of spoil bank.
		One side.	Other side.		One side	Other side.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0	9	10	10	..	19	19	38	Spoil banks on one side.	5 feet.
1	10	11	10	14	35	20	55	Do.	Do.
2	11	12	10	18	41	21	62	Do.	Do.
3	12	13	10	23	48	22	70	Do.	Do.
4	13	14	10	28	55	23	78	Do.	Do.
5	14	15	10	33	62	24	86	Do.	Do.
6	15	16	10	39	70	25	95	Do.	Do.
7	16	17	10	45	78	26	104	Do.	Do.
8	17	18	10	52	87	27	114	Do.	Do.
9	18	19	19	34	71	71	142	Spoil banks on both sides.	Do.
10	19	20	20	38	77	77	154	Do.	Do.
11	20	21	21	42	83	83	166	Do.	Do.
12	21	22	22	46	89	89	178	Do.	Do.
13	22	23	23	50	95	95	190	Do.	Do.
14	23	24	24	55	102	102	204	Do.	Do.
15	24	24	24	60	108	108	216	Do.	Do.
16	25	24	24	65	114	114	228	Do.	Do.
17	26	24	24	70	120	120	240	Do.	Do.
18	27	24	24	75	126	126	252	Do.	Do.
19	28	24	24	80	132	132	264	Do.	Do.
20	29	24	24	86	139	139	278	Do.	Do.
21	30	24	24	92	146	146	292	Do.	Do.
22	31	24	24	98	153	153	306	Do.	Do.
23	32	24	24	104	160	160	320	Do.	Do.
24	33	24	24	111	168	168	336	Do.	Do.
25	34	24	24	118	176	176	352	Do.	Do.
26	35	24	24	125	184	184	368	Do.	Do.
27	36	24	24	132	192	192	384	Do.	Do.
28	37	24	24	139	200	200	400	Do.	Do.
29	38	24	24	146	208	208	416	Do.	Do.
30	39	24	24	154	217	217	434	Do.	Do.

Appendix B.

Form of Schedule for Land Acquisition.

Form No. 1.

[To be retained by Railway Authorities and to be utilized in cases of Railways taking up land at capital cost.]

GONDA-AZIMGARH RAILWAY.

Azimgarh Section.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required.	
Set.	Sheets		Permanent (Pink).	Temporary (Yellow).
			ACS.	ACS.
Set C—Banda district.	3	Main line from chainage 36,627 to chainage 38,900, land to be permanently occupied	4·6963	..
	3	Same length for side cuttings ..	..	3·1309
	3	Extra land for stacking material, etc., at side of Bridge No. 57	..	9·5500
	4	Mandwal Station-yard	28·6961	..
	4	Approach road to Mandwal Station.	..	2·7548
	4	Site for temporary house and office for Assistant Engineer	..	5·5096
	5	Brickfield to north of line opposite chainage 42,350, to be permanently occupied	11·2163	..
	6	Main line from chainage 41,410 to chainage 42,728, land to be permanently occupied	2·4389	..
	6	Same length for side cuttings ..	..	1·5243
		Total ..	47·0476	22·4696

Azimgarh,

———————
Executive Engineer.

———————
Agent.

———————
Engineer-in-Chief.

———————
Chief Engineer.

FORM No. 2.

[For Revenue Authorities.]

GONDA-AZIMGARH RAILWAY.

AZIMGARH SECTION.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required (Pink).
Set.	Sheets.		
			ACS.
Set C—Banda district.	3	Main line from chainage 36,627 to chainage 38,900, land to be permanently occupied	4·6963
	3	Same length for side cuttings	3·1309
	3	Extra land for stacking materials, etc., at site of Bridge No. 57	9·5500
	4	Mandwal Station yard	28·6961
	4	Approach road to Mandwal station	2·7548
	4	Site for temporary house and office for Assistant Engineer	5·5096
	5	Brickfield to north of line opposite chainage 42,350	11·2163
	6	Main line from chainage 41,440 to chainage 42,728, land to be permanently occupied	2·4389
	6	Same length for side cuttings	1·5243
		Total ..	69·5172

AZIMGARH,

———— *Executive Engineer.*

———— *Agent.*

———— *Engineer-in-Chief.*

———— *Chief Engineer.*

Form No. 3.

[To be retained by the railway authorities and to be utilized by the railways receiving land free of cost.]

GONDA-AZIMGARH RAILWAY.

Azimgarh Section.

Schedule showing land required for railway purposes in the Bilaspur Tahsil of the Banda district.

Name of village—Mandwal.

Reference to plan.		Purpose for which the land is occupied.	Area of land required.			
Set.	Sheets.		Class A (Pink).	Class B (Yellow).	Class C (Purple).	Class D (Green).
			ACS.	ACS.	ACS.	ACS.
Set C—Banda district.	3	Main line from chainage 36,627 to chainage 38,900, land to be permanently occupied ..	4·6963	..	..	..
	3	Same length for side cuttings	..	3·1309	..	..
	3	Extra land for stacking material, etc., at site of Bridge No. 57	..	9·5500	..	..
	4	Mandwal Station-yard ..	28·6961	..	..	..
	4	Approach road in Mandwal Station	..	..	..	2·7548
	4	Site for temporary house and office for Assistant Engineer	..	5·5096	..	..
	5	Brickfield to north of line opposite chainage 42,350	..	..	11·2163	..
	6	Main line from chainage 41,440 to chainage 42,728, land to be permanently occupied ..	2·4389	..	..	..
	6	Same length for side cuttings	..	1·5243	..	..
		Total ..	35·8313	19·7148	11·2163	2·7548

Azimgarh,

Executive Engineer.

Agent.

Engineer-in-Chief.

Chief Engineer.

Back Schedule.

—			Class A.	Class B.	Class C.	Class D.	Remarks.
Date of occupation by Railway Company.							
Extract area taken up.							
Amount of reduction of Jama							
Net cash compensation.							
Yearly rental for land under Class C.							
Land transferred from one class to another.	Area.						
	Date of transfer.						
Released land how disposed of	Exact area of land released.						
	Restored to mauza.	Area					
		Increase per Jama.					
	Sold.	Area.					
		Sale-proceeds.					
	Leased.	Area.					
		Amount of rental.					
Remaining unproductive.							
Cash paid by Railway Company as compensation for deterioration.							

NOTE.—This form known as the "Back Schedule" has been prescribed by the Government of the United Provinces for adoption by the Railways traversing the United Provinces and Oudh. As this form is designed to meet the convenience of the Revenue authorities as well as the railways concerned, it is commended for adoption mutatis mutandis by all other railways in India and Burma, but not without the prior approval of each local Government or Administration.

APPENDIX C.

Acquisition of State Land in charge of the Military Authorities.

[Railway Board's Circular No. 2650 R.G., dated 2nd September 1913.]

The accompanying summary of rules on the subject of the transfer or acquisition of land in cantonments or other land in charge of the Military Authorities, and of the construction of buildings and other works in the vicinity of forts and cantonments, which has been brought up to date is forwarded for information and guidance, in supersession of the rules communicated with Railway Board's circular letter No. R. C. 194–B–10, dated the 8th October 1906.

(*A*) *Rules relating to the acquisition of land.*

I.—No land, whether within cantonment limits, forming part of an encamping ground, or otherwise held for military purposes, shall be entered upon or occupied for any purpose whatever, either by contractors or *any* other persons (official or non-official) acting under the orders of any Civil department of the State, until the sanction of the Government of India in the Army Department to the occupation or use of the land has first been obtained, and communicated to the General Officer Commanding the Division or independent Brigade. In all such cases, the sanction of the Government of India will be obtained by the General Officers Commanding Divisions or independent Brigades through the Quartermaster-General in India.

Proviso.—These orders do not affect the powers exercised under section 263 of the Cantonment Code, 1912, by the General Officer Commanding the Division or independent Brigade, to sanction the grant of ordinary building sites in cantonments. For rules regarding land within defence zones, see rules VII, VIII and IX.

II.—Application for such land when within cantonment limits should be made by the Officer in charge of the works, to the Cantonment Authority but in the case of a Military encamping ground or other State land in Military occupation application should be made to the General Officer Commanding the Division or independent Brigade. The Military Authorities will then take the necessary steps to obtain (i) the sanction of His Excellency the Commander-in-Chief to enter into negotiations for the proposed transfer of land; when this is sanctioned, (ii) the opinion of the Local Government, which should invariably be recorded upon all applications, and (iii) the sanction of the Government of India to the occupation of the required land. In all cases where the sanction of the Railway Board to the acquisition of such land by a Railway Administration is necessary, the application for such sanction should be made only after the sanction of the Government of India in the Army Department has been obtained.

III.—The application referred to above should be accompanied by the usual land plans and schedules required by the rules relating to the acquisition of land for railways. The plans should be full and complete and should show all existing roads and buildings, and also rifle ranges if interfered with in any way; and if any buildings are known to be used for public purposes, or by special departments, their purpose and ownership should be stated.

IV.—On receipt by the local Military Authorities of the sanction referred to in II above they will at once transfer the land. In all cases however where the land is being transferred without the retention of rights over such land the transfer should be effected through the Revenue Authorities, who

will also, when necessary, assess the value of such land, and the value according to such assessment should be debited and credited to the proper Railway and Civil Accounts head respectively. No notification in the local gazette is necessary.

Proviso.—The above rule does not apply to the adjustment of boundaries by mutual consent, which may be effected without the intervention of the Civil Authorities, but covers the exchange of separate plots of land.

V.—In the case of privately owned land in cantonments the provisions of the Land Acquisition Act should be applied, but it will be necessary in the first place for the officer applying to obtain the sanction of the Government of India in the Army Department to the occupation of the land as prescribed in II above

VI.—The procedure laid down in Chapter XXI of the Cantonment Code, 1912, for application for permission to occupy, for the purposes of a building site, land belonging to the Government in a cantonment, applies to private railway companies and individuals only, and not to State Railways, including railways worked by companies, who hold lands the ownership of which vests in Government, or to departments of the State.

(*B*) *Rules relating to restrictions on the use of land.*

VII.—The following orders control the construction of buildings, etc., on land in the charge of the Military Authorities or of Civil Departments, lying within the authorised zones of works of defence:—

(i) Clearance zones shall be prescribed and clearly demarcated in the vicinity of all the works of defence which are enumerated in paragraph 336 of Army Regulations, India, Volume II, and such other fortifications or places as the Government of India may decide.

(ii) In such zone all land will be dealt with in accordance with the Indian Works of Defence Act.

(iii) When a clearance zone has been notified, except in so far as the notification may authorise modifications, no infringement of the restrictions imposed under the Act shall be permitted by any official or private person without the previous sanction of the Officer Commanding or General Officer Commanding within their powers of exemption as specified in the Act, or by the Government of India.

(iv) Without the previous sanction of the Government of India, no State land within the prescribed clearance zone shall be transferred to, sold to, exchanged with or permanently occupied by, any private person or municipality or corporation, not immediately subject to the executive orders of the Government of India.

VIII.—When a zone has been prescribed and contains land in occupation by a railway the Officer Commanding shall inform the Railway Authorities in whose charge the land may be, of the area of the land thus affected and of the restrictions which will be applied. Any modification of the original restrictions will be similarly communicated.

Proviso.—Rules VII and VIII do not apply to the defences of Fort William, Calcutta and Fort St. George, Madras, nor to the Fortress of Aden, concerning which special regulations exist.

IX.—In the case of private lands notified under section 3 of the Indian Works of Defence Act, VII of 1903, that is land which is to be kept clear of buildings and other obstructions, the procedure in regard to the construction of works, etc., thereon is that laid down in section 7 of the Act (See Annexure).

(C) Summary of preceding rules.

X.—The procedure laid down in the preceding paragraphs summarised briefly is as follows:—

(*a*) In all cases of land in cantonments, camping grounds, in the vicinity of forts, or otherwise held for Military purposes, the consent of the Military Authorities is necessary before it can be entered upon or occupied or before any work can be commenced thereon (Rules I, II, III and VII to IX).

Acquisition should first be sanctioned by the Government of India in the Army Department, then if necessary by the Railway Board.

(*b*) When land in the occupation of the Military Authorities is being acquired outright acquisition should be effected through the Revenue Authorities who will assess the value to be debited and credited to the proper Railway and Civil Accounts head respectively.

(*c*) When the land is in the occupation of a Civil Department or belongs to a private owner, it must, after the consent of the Military Authorities has been obtained, be acquired in the usual manner through the Revenue Authorities (Rule V).

(*d*) All plans submitted with an application should be full and complete clearly showing sites of existing roads, buildings and rifle ranges (Rule III).

ANNEXURE TO APPENDIX C.

Extracts from the Indian Works of Defence Act, VII of 1903, *as amended by Act V of* 1909.

*   *   *   *   *

3. (1) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders.

(2) The said declaration shall be published in the local official gazette and shall state the district or other territorial division in which the land is situate and the place where sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

*   *   *   *   *

7. From and after the publication of the notice mentioned in section 3, sub-section (2), such of the following restrictions as the Local Government may, in its discretion, declare therein shall attach with reference to such land, namely:—

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section 4, may extend to a distance of two thousand yards from the crest of the outer parapet of the work:—

(i) no variation shall be made in the ground level, and no building wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the

General Officer Commanding the Division, and on such conditions as he may prescribe :

(ii) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored, or otherwise accumulated :

Provided that, with the written approval of the General Officer Commanding the Division, District or Brigade, and on such conditions as he may prescribe, road ballast, manure and agriculture produce may be exempted from the prohibition :

Provided, also, that any person having control of the land as owner, lessee, or occupier shall be bound forthwith to remove such road ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer.

(iii) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of the Military Authority, by the Commanding Officer and in other cases by the Collector with the concurrence of the Commanding Officer : and

(iv) where any building, wall, bank or other construction above the ground has been permitted under clause (i) of this sub-section to be maintained, erected, added to or altered, repairs shall not, without the written approval of the General Officer Commanding the Division, be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely :—

(1) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected :

Provided that, with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials easily destroyed or removed, may be maintained, erected, added to or altered.

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation upon an order in writing signed by the General Officer Commanding the Division, District or Brigade ; and

(2) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the General Officer Commanding the Division and on such conditions as he may prescribe.

(*c*) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (*a*) and (*b*) shall apply with the following additional limitation, namely :—

No building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected :

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brushwood fences may be exempted from this prohibition.

APPENDIX D.

Licence form for use of railway land.

An agreement made this *day of*
19 *between the*
hereinafter called "the Administration" of the one part and
hereinafter called "the Licensee (s)" of the other part
Whereby it is agreed as follows :—

1. The Licensee(s) shall have the use of the piece of land described in the schedule hereto for the purpose of constructing and maintaining thereon tanks, buildings and other conveniences for the reception and storage of and receiving and storing therein kerosene oil in bulk subject to such rules, regulations and by-laws as may from time to time be made by or on behalf of the Administration or by or on behalf of any local authority in relation to the transport, discharge and storage of kerosene oil and subject to the conditions hereinafter contained.

2. No oil shall be stored or placed on the said land except in some tank or receptacle approved by the Manager for the time being of the hereinafter referred to as the said Manager.

3. Licensee(s) shall before proceeding to construct any tank or other receptacle for oil or any building or other erection on the said land, give notice in writing thereof to the said Manager specifying the proposed site of the convenience intended to be constructed and furnish to him a detailed plan, elevation and specification of such convenience and the Licensee(s) shall not construct such convenience save on such site and in accordance with such plan, elevation and specification thereof as shall be first approved by the said Manager.

4. The Licensee(s) shall allow the said Manager free access at all times to the said land and to all tanks, buildings, works and conveniences of the Licensee(s) thereon whether completed or in course of construction and the Licensee(s) shall whenever so requested by the said Manager, forthwith pull down, rebuild, replace or repair any part or parts of such tanks, buildings, works or conveniences which the said Manager shall consider to be improperly situated or of defective design, construction or material or in want of repair.

5. The Licensee(s) shall from the
day of 19 pay to the Administration a rent of Rs. per annum which shall be paid on the last day of the month for which the same shall become due and shall also duly pay all cesses, rates and taxes payable as from the said date in respect of the said land and the tanks buildings works and conveniences of the Licensee(s) thereon for the time being and the proportion of all the cesses rates and taxes of the station premises applicable to the said land tanks buildings works and conveniences if the same be not separately assessed in respect thereof.

6. The Licensee(s) shall not transfer or sublet the privileges in clause I hereof mentioned without the consent in writing of the said Manager.

7. No sale of oil shall take place at any depot without the prior consent at each case of the Local Civil Authorities which must be obtained by and in the cost of the Licensee(s).

Page 201, *Appendix D to Appendix III.*—*Substitute* the following *for* the existing clause 8 :—

8. The said privileges in clause I hereof mentioned are granted on the express understanding that either party may be at liberty to determine and put an end to this licence by giving to the other of them at any time three calendar months' notice in writing, and such privileges may be so determined by the Administration without any claim for compensation whatever on the part of the Licensees, and on the expiration of such notice the Licensees shall discontinue to use and shall yield up to the Administration the said land.

The petroleum installation, buildings and other works erected by the Licensees except such portions of the installation, buildings and other works as may be taken over by the Administration on terms to be mutually agreed upon between the Administration and the Licensees, shall be pulled down and removed from the said land by the Licensees at the Licensees' own expense within two calendar months after the determination of this licence, and the Licensees shall within the period last aforesaid at the Licensees' own expense restore to its former condition the land forming the site thereof, and if default shall be made herein, the Administration may after the expiry of the said period carry out so much of such pulling down, removal and restoration as the Licensees shall fail to complete and may sell any material and things so removed and all expenses incurred therein shall be paid by the Licensees to the Administration on demand.

[XIX list, 30-6-30]

8. The said privileges in clause I hereof mentioned are granted on the express understanding that either party may be at liberty to determine and put an end to this licence by giving to the other of them at any time three calendar months' notice in writing and such privileges may be so determined by the Administration without any claim for compensation whatever on the part of the Licensee(s) and on the expiration of such notice the Licensee(s) shall discontinue to use and shall yield up to the Administration the said land together with all such tanks buildings works and conveniences of the Licensee(s) thereon as the Administration shall elect to purchase as hereinafter sanctioned.

Upon such notice of determination being given as aforesaid the Administration shall have the option to be signified by the said Manager by notice in writing to the Licensee(s) at any time before the date on which this licence shall determine of purchasing all or any of the tanks buildings works and conveniences of the Licensee(s) upon the said land at a price equal to the actual cost of construction thereof less.

Such of the said tanks buildings works and conveniences as the Administration shall not elect to purchase shall be pulled down and removed from the said land by the Licensee(s) at the Licensee(s) own expense within two calendar months after the determination of this licence and the Licensee(s) shall within the period last aforesaid at the Licensee(s) own expense restore to its former condition the land forming the site thereof and if default shall be made herein the Administration may after the expiry of the said period carry out so much of such pulling down removal and restoration as the Licensee(s) shall fail to complete and may sell any materials and thing so removed and all expenses incurred therein shall be paid by the Licensee(s) to the Administration on demand.

9. Nothing herein contained shall be construed to create a tenancy in favour of the Licensee(s) of the said premises and the Administration may for their mere motion upon the determination of this licence re-enter upon and re-take and absolutely retain possession of the said land.

10. The Licensee(s) shall at all times keep the Administration indemnified against and shall reimburse to the Administration all claims demands suits losses damages costs charges and expenses whatsoever which the Administration may sustain or incur by reason or in consequence of any injury to any person or to any property resulting directly or indirectly from the explosion combustion or leakage of any oil kept or placed by the Licensee(s) upon the said land or by reason or in consequence of the non-observance or non-compliance on the part of the Licensee(s) with any rule, regulation or by-law referred to in clause I hereof.

11. The Licensee(s) shall pay all the cost of the stamping and execution of this agreement.

As witness the signatures of the parties hereto the day and year first above written.

Witness to the signature of the Manager of the

for and on behalf of the

Witness to the signature of

APPENDIX E.

Classification in accounts of the sale-proceeds of Government land and buildings.

[Government of India, Finance Department, Resolution No. 2816-A., dated the 10th May 1912.]

The Government of India have had under their consideration the question of the classification in the accounts of the sale-proceeds of Government land and buildings. Information has been obtained from the Account Department as to the practice on the subject obtaining in the different provinces; and it appears that the heads to which such sale-proceeds have been credited have in the past been practically determined by the Revenue authorities, whose classification the Account Officers have not been in a position to check, save in exceptional cases. The Government of India consider it desirable to prescribe clear rules, which while maintaining, as far as possible, the previous practice, should secure uniformity of classification and be comprehensive enough to include all cases of the kind in question. They are accordingly pleased to direct that the matter shall in future be regulated in accordance with the schedule annexed to this resolution.

I.—Sale-proceeds of land.

——	Head to which creditable.
* (i) When the cost of the land was originally debited to a Commercial Department for which regular Capital and Revenue Accounts are kept.	The Capital or Revenue account for the project as the case may be.
(ii) When the cost of the land was originally debited to an Imperial Department, such as Post Office and Telegraph, or a Revenue Department, such as Forest or Excise under departmental regulations.	The Departmental or the Revenue head concerned.
(iii) When the cost was not so debited:—	
(*a*) The rights of Government in agricultural land not covered by clause (*b*).	I.—Land Revenue.
(*b*) Nazul lands in the United Provinces, the Punjab and the Central Provinces and lands in the Punjab equipped at the cost of Provincial revenues for resale for building purposes.	XXV.—Miscellaneous—Sale of land and houses.
(*c*) All other items	XXV.—Miscellaneous — Extraordinary items.

* In the case of land acquired by the Government on payment for Companies' Railways, or of Government land made over to such Railways by other Government Departments or Railways, where the cost was originally debited to '40. Subsidised Companies—Land' or '39. Guaranteed Companies—Land,' the sale-proceeds are creditable to 'XXVIII—Subsidised Companies.'

(b) When the sale affects irrigation works for which such accounts are not kept.	XIV. Irrigation, Navigation, Embankment and Drainage works, etc., Irrigation works.
(c) When sale is of buildings, the cost of which was originally debited to a Central Department such as Post Office or Telegraph, or a Revenue Department, such as Forest or Excise, under departmental regulations.	The departmental or the Revenue head concerned.
(d) In all other cases—	
(i) If sold in the Public Works Department, Army Department or Military Works Services.	XXX. Civil Works, XXXVI. Army, XXXVIII. Military Works, respectively.
(ii) If sold by Civil Agency.	XXXV. Miscellaneous sale of lands and houses.

[III list, d. 1-10-29]

Page 202, Appendix E to Appendix III.—*Substitute* the following *for* the existing Schedules I and II :—

I.—Sale-proceeds of land.

	Head to which creditable.
*(i) When the cost of the land was originally debited to a Commercial Department for which regular Capital and Revenue Accounts are kept.	The Capital or Revenue Account of the project as the case may be.
(ii) When the cost of the land was originally debited to a Central Department, such as Post Office and Telegraph, or a Revenue Department, such as Forest or Excise under departmental regulations.	The departmental or the Revenue head concerned.
(iii) When the cost was not so debited :—	
(*a*) The rights of Government in agricultural land not covered by clause (*b*).	V. Land Revenue.
(*b*) Nazul lands in the United Provinces, the Punjab and the Central Provinces and lands in the Punjab equipped at the cost of Provincial revenues for resale for building purposes.	XXXV. Miscellaneous sale of lands and houses.
(*c*) All other items ...	XXXV. Miscellaneous—Miscellaneous.

II.—Sale-proceeds of buildings (including the actual area occupied by or auxiliary to a building.

	Head to which creditable.
(*a*) When the cost of the building was originally debited to a Commercial Department for which regular capital and Revenue Accounts are kept.	The Capital or Revenue Account of the project, as the case may be.

* In the case of land acquired by the Government on payment for Companies' Railways or of Government land made over to such Railways by other Government Departments or Railways, where the cost was originally debited to "Subsidized Companies—Land" or "39. Guaranteed Companies—Land," the sale-proceeds creditable to "XII. Subsidized Companies."

II.—Sale proceeds of buildings (including the actual area occupied by or auxiliary to a building).

—	Head to which creditable.
(*a*) When the cost of the building was originally debited to a Commercial Department for which regular capital and Revenue Accounts are kept.	The Capital or Revenue Account of the project, as the case may be.
(*b*) When the sale affects irrigation works for which such accounts are not kept.	XXX.—Minor Works and Navigation.
(*c*) When sale is of buildings, the cost of which was originally debited to an Imperial Department such as Post Office or Telegraph, or a Revenue Department, such as Forest or Excise, under departmental regulations.	The departmental or the Revenue head concerned.
(*d*) In all other cases —	
(i) If sold in the Public Works Department, Army Department or Military Works Services.	XXXI.—Civil Works, XXXIII.—Army, XXXIV.—Military Works, respectively.
(ii) If sold by Civil Agency.	XXV.—Miscellaneous—Sale of lands and houses.

Appendix F.

Abstract of orders relating to the adjustment necessary in accounts on acquisition or relinquishment of land.

Items.	Description of land. (1)	When the cost of land is to be debited to the capital account of the railway. (2) *	When the cost of land is not to be debited to the capital account of the railway but is met by Government. (3) *
(*a*)	Land specially purchased for railways, (i.e., land in which rights amounting to a full proprietary title adverse to Government exist).	Actual expenditure incurred on acquisition including charges † for any special establishment, demarcation and contingencies, to be debited to the capital account of the railway.	Actual expenditure including charges † for any special establishment, demarcation and contingencies, to be debited to "40. Subsidised Companies—land."
(*b*)	Land, whether waste, forest, culturable or otherwise, which is already vesting in Government and transferred to a railway administration, (i.e., land in which no rights adverse to Government exist).	Market value at the time of transfer, to be debited to the capital account of the railway.	Market value at the time of transfer, to be debited to "40. Subsidised Companies—land."
(*c*)	Land in which rights short of a full proprietary title adverse to Government exist, (i.e., rights are divided between Government and a private individual).	Cost of rights acquired from private individual to be calculated as in item (*a*) and of those owned by Government as in item (*b*) above.	Cost of rights acquired from private individual to be calculated as in item (*a*) and of those owned by Government as in item (*b*) above.
(*d*)	Land relinquished by railways.	(*a*) When sold— Actual sale-proceeds, to be credited to the capital account of the railway. (*b*) When transferred to a Government Department or a Railway Administration. Market value at the time of transfer, to be credited to the capital account of the railway.	(*a*) When sold— Actual sale-proceeds, to be credited to "XXVIII. Subsidised Companies" (a minor head sale of land to be opened). (*b*) When transferred to a Government Department or a Railway Administration. Market value at the time of transfer, to be credited to "XXVIII. Subsidised Companies."

* *Notes.*—

(*i*) The expression 'market value' used in the Appendix is defined in S.O. No. 23, paragraph 2.

(*ii*) When land which has been set apart for the common use of the villages in estates as defined in the Madras Estates Land Act I of 1908 is transferred to the Railway Administration, the adjustments to be made in the accounts of the Railway Administration should be in accordance with orders in paragraph 3 of Board's Standing Order No. 91.

G.O. No. 2174, Revenue, dated 1st November 1927.
G.O. No. 2699, Revenue, dated 30th December 1927.

† Whether *incurred* by Civil or Public Works Disbursing Officers.

The following is the classification of railways in the Madras Presidency under the different columns of the abstract:—

Name of railway.	
Madras and Southern Mahratta Railway ..	Column 2.
South Indian Railway	Column 2.
Bengal-Nagpur Railway	Column 2.
Bezwada Extension Railway, Dhone-Kurnool Railway	Column 2.
All District Board Railways	Column 3.

Page 204, *Appendix F to Appendix III, column* 3 *of the statement.—For* " 40. Subsidized Companies—Land " and " XXVIII. Subsidized Companies " wherever they occur in this column *substitute* " 11. Subsidized Companies—Land " and " XII. Subsidized Companies," respectively.

[III list, 1-10-29]

APPENDIX G.

Revision of the rules in the various provinces under the Land Acquisition Act in order to subject the Collector in awarding compensation to the orders of his departmental superiors.

[Government of India, Revenue and Agricultural Department, Circular No. 9-292-1, dated the 28th June 1906.]

The Governor-General in council has recently had under consideration the question of the procedure for the award of compensation for land acquired under the Land Acquisition Act (Act I of 1894). He has ascertained that some doubt exists as to the legal position of the officer exercising the powers of a Collector under the Act, and that in some Provinces it is apparently understood that in making his award the Collector is acting in a judicial or semi-judicial capacity, and is therefore bound by the rules which guide the procedure of an officer acting judicially, and must not be interfered with by his executive superior in conducting his inquiry or in arriving at the amount of his award. Where this view is acted on, it follows that the Collector is reluctant to receive any evidence not brought before him judicially; and as the Collector's award is binding against Government, it cannot be contested in the Civil Court in the interests of Government, even although the Collector's superior officers may be of opinion that he has made too liberal an award.

2. This doubt has now been removed by an authoritative decision of the Judicial Committee of the Privy Council and I am directed to invite attention to their judgment in the suit Ezra *v.* The Secretary of State for India, which will be found in the Indian Law Reports XXXII, Calcutta Series, page 605, and in particular to those parts of the judgment of the Calcutta High Court in the Cases which deal with the position of the Collector (or other acquiring officer duly empowered) under the Act. It will be seen that the Judges have held that "he is, in no sense of the term, a judicial officer; nor is the proceeding before him a judicial proceeding." It is explained that the Collector acts as the Agent of the Government or of the Company for which Government take up the land, and that they are accordingly bound by the award of their agent; while if a judicial decision as to the value is desired by the owners he can obtain it by requiring the matter to be referred by the Collector to the Court. The learned Judges, therefore, held that the inquiry and valuation made by the Collector are departmental in their character, for the purpose of enabling the Government to make a tender through him to the persons interested, and that it is open to him, in making his award as to the compensation to be offered, to consider all available information on the question.

3. It follows from this decision that as the Collector in making an inquiry and award under the Act is merely the departmental agent of the Government it is open to the Local Government to issue instructions as to the information he is to take into account in making his valuation, as to the course to be taken by him when he finds, as the result of his inquiry, that the amount of the compensation, which in his opinion should be allowed for the property, largely exceeds the estimates on which the acquisition was sanctioned.

4. I am directed to suggest that, where necessary, the rules in force under the Act should be revised in accordance with this decision, provision being made that in all cases in which land is acquired; for Government or for local body or company—

(1) The Collector of the district in which the property to be acquired is situated should be consulted in framing the original estimates, and his opinion as to the rates to be adopted should be given full consideration.

(2) The officer making the award should give sufficient notice to the departmental or other officer concerned, and should take into consideration any representation which such officer may make, whether it is made orally or by letter. More especially he should, before making the award, allow such officer an opportunity of appearing in person or by agent and of producing evidence as to the value of the land.

(3) If the officer making the award is not the Collector of the district, he might be required before making the award, to refer to the Collector any case in which he proposes to award more than 10 per cent in excess of the original estimates or more than Rs. 10,000 or some similar limit. The Collector should have the power of requiring all cases to be referred to him before the award is given, and the acquiring officer should make his final award according to the instructions received from the Collector.

(4) When a case has been referred to the Court, the Collector should arrange for the defence of his award as if it were a suit against Government.

APPENDIX H.

Private negotiations with owners of land to be acquired for a public purpose.

[Government of India, Public Works Department, letter No. 1780 R. C., dated the 12th November 1904.]

I am directed to state, with reference to the rules relating to the acquisition of land for railways issued with Public Works Department Circular No. IV-Ry., dated the 4th September 1897, that the Government of India have had under consideration the question of permitting departmental and local officers to negotiate either directly or by deputy in certain cases, with the owners of land about to be taken up or acquired for a public purpose, with the object of coming to an amicable agreement with them as to the price to be paid *previous* to the initiation of proceedings under the Land Acquisition Act, and with a view of guarding against subsequent exorbitant demands or awards.

2. The Government of India are of opinion that there is no objection to the adoption of the procedure indicated above, in cases in which it may be considered that its application would result in economy, and to the statement of the settlement thus arrived at being communicated to the Land Acquisition Officer, who though not strictly bound to accept in his award the price agreed on beforehand, will no doubt do so in ordinary cases.

3. I am to point out that, as it is considered necessary that there shall always be a perfectly clear understanding as to whether the price agreed upon does or does not include the additional 15 per cent due under section 23 (2) of the Act, the statement of the settlement arrived at through the deputy,

agent or broker, should take the form of an agreement that the owner is willing to sell for a certain specified sum *plus* 15 per cent for compensation, the sum of the two being the actual price agreed on. In all cases it is necessary that the final acquisition shall be effected in accordance with the procedure of the Act as indefeasible title is thereby secured.

4. With these remarks I am to request that when it is proposed to take up land in the neighbourhood of large cities, or other congested areas, the desirability of adopting the preliminary measures indicated above, may be fully considered.

5. If a broker or agent is employed, any fee that it may be proposed to pay to him will require the sanction of the Government of India. Such fee would not ordinarily be made dependent on the price eventually paid. When a fee is sanctioned and paid, it would be treated as part of the cost of acquiring the land and would be accounted for accordingly.

APPENDIX I.

Extracts from Government of India, Public Works Department, letter No. 1628–*R.C., dated the 17th October* 1904 (*circulated with their No.* 1698–*R.C., dated* 1*st November* 1904).

2. . . . I am to say that it is considered that the matter of the relinquishment of land in the possession of a railway should be viewed from three distinct standpoints namely:—

(i) Land which is likely to be required by the railway in the near future;

(ii) Land which may probably be required in the distant future;

(iii) Land for which the railway is not likely to have any further use, either in the present or the future.

3. In regard to (i), I am to say that the Government of India consider that such lands should remain in the custody of the Railway authorities, and that the railway should not be called upon to relinquish them, and that the term "near future" should be liberally interpreted with reference to the probable requirements of the railway. Where there is any uncertainty the benefit of the doubt should be given to the railway in favour of retention.

4. As regards (ii), I am to say that such lands should not be relinquished, but should be made over to the Revenue authorities for *safe custody*. In doing so the attention of the Revenue authorities should be invited to the terms of paragraph 4 of Public Works Department Circular No. 136/R.C, dated the 19th August 1897, which prescribes that lands so transferred are not to be let or sold except on such terms of temporary occupation as will not interfere with there being made available on *short notice*, for railway purposes and those authorities should at the same time be informed that the conditions specified above may be best attained if the concurrence of the Railway authorities is first obtained to any proposals that may be made for utilizing the lands from time to time.

5. With regard to (iii) . . . I am to say that in cases where there is no reasonable doubt that the land will never be required by the railway it should be relinquished outright to the Revenue authorities . . . But there is no objection to the Revenue authorities retaining the lands after relinquishment till an offer is obtained more commensurate with its value

than the amount likely to be realized by an early sale and to the Revenue authorities retaining and treating as "Land Revenue" any rent which may be realized by the temporary lease of such lands. In such cases all that is necessary is to ensure that until sold the land continues to appear as belonging to the railway in the Land Registers of the Revenue authorities, and that its subsequent sale is not delayed for a period which is incommensurate with the enhanced price which it is likely to fetch.

Appendix J.

Tenure on which departments of Government hold land for their use.

[Government of India, Department of Revenue and Agriculture, letter No. 46-179-2, dated the 8th January 1897, to the Secretary to the Government of Bombay, Revenue Department.]

I am directed to refer to your letter No. 3391 of the 27th April 1896, regarding the disposal of certain land forming part of the harbour defence workshops at Mazagaon. The particular case in question will be dealt with by the Government of India in the Military department, but as your letter under reply asks for an authoritative decision on the general question of the tenure on which departments of Government hold land for their use, I am directed to communicate the following remarks for the information and guidance of the Bombay Government.

2. The ownership of all State lands in India vests in Her Majesty's Secretary of State, so that the property in them appertains neither to a Local Government nor to any particular department. Such lands are ordinarily administered by the Local Government of the Province in which they are situated, subject to law, to any rules made or sanctioned by the Government of India, and to the general executive control of the Supreme Government.

3. When any such land is made over to the occupation and management of any Department of Government, it is made over for the purposes of that department, and cannot be used by it for other purposes. That department has no property in the land, its interest in it being confined to a right of occupation and user, which however, cannot be withdrawn without the consent of the Government to which it is subordinate, whether Imperial or Provincial.

4. It is for the department concerned (subject to the control of the Government to which it is subordinate) to decide whether the land is still needed for its purposes; but it is its duty to relinquish it so soon as it is no longer needed or likely to be needed for those purposes, and when thus relinquished, the land reverts to the administration of the Local Government. If in any case the Local Government is of opinion that land should be withdrawn from the occupation of any Imperial Department, it should refer the matter for the orders of the Government of India.

5. If a department is in possession of land which it does not require for its immediate purposes, but which will so probably be required in the future that it appears inadvisable to relinquish it, the land may be let by the department concerned; but if it is let for a longer term than a year, or if a yearly term is renewed beyond the third year, or if the property is specially valuable (e.g., if situated in a large town), the Local Government should,

and in any case it may be consulted by the department in possession as to the terms before final arrangements are made, since it is in the best position to advise as to the full value of the property.

6. These principles apply to all Crown lands, whether acquired by purchase on behalf of or by transfer to a department, and to buildings that may be on the land. They also apply to all cases where the property to be given up, whether temporarily or permanently, either includes the whole of a block of land in the occupation of any department, or consists of a portion which can be separated from the remainder and relinquished without inconvenience. But principles enunciated in the two preceding paragraphs do not apply to plots of land in the midst of or adjoining an area occupied by a department and to separate which from such area would be inconvenient, even though it cannot strictly be said that they are immediately required for the purposes of the department. The very common case of unoccupied or grass lands within the boundaries of a cantonment is an instance of this exception. In such cases the control must clearly remain with, and any lease or other temporary alienation that may be advisable must be made by, the department which occupies the general area.

APPENDIX K.

Preparation of estimates of the cost of land required for Railway or other large public projects.

[Government of India, Public Works Department, Circular No. XI-Ry., dated 21st September 1895.]

Cases have recently come to the notice of the Government of India in which the cost of land taken up for railway purposes has exceeded by several hundreds per cent the cost shown in the detailed estimates; and while in some cases this difference appears to have been due to the inadequacy of the estimates, in others it was certainly caused, at least in part, by the exorbitant nature of the Collector's award under the Land Acquisition Act. It appears, therefore, advisable to issue instructions with the view of securing greater accuracy in the estimates and closer supervision over the awards, when land is taken up for large public projects, of whatever nature.

2. In paragraph 8, Chapter V, of the Rules for the preparation of railway projects, it is laid down that the data for the preparation of estimates of the cost of land should be obtained from the Civil authorities who are responsible for the valuation and assessment of all land taken up for public purposes. This rule has not always been observed in recent instances. Its observance is most important, as the Public Works Department authorities are not in a position to frame an estimate with any approach to accuracy.

3. The Civil authorities should, therefore, be in all cases requested to furnish data in the shape of rates per acre. This, however, they cannot do unless they are furnished with information as to the situation of the land to be taken up, as it is impossible to quote rates which shall be even approximately true for the whole of a large tract. A separate sketch map should, therefore, be furnished for each district traversed by the railway, canal, or other works, showing the exact course of the centre line of the land to be taken up, with reference to villages and towns. This map should be to a scale of one inch to the mile and should show village boundaries wherever they have been surveyed. The distances should also be marked upon it, and

the average width of the strip to be taken up should be stated. For land near towns, or which for other reasons is likely to have a specially high value, a map to a sufficiently large scale should be prepared, showing the approximate boundaries of the land likely to be required, with a note of any valuable trees, buildings or other property for which compensation will have to be paid in addition to the price of the land itself. The Civil authorities' data will then take some such form as the following :—

Miles.	Rupees per acre.			Remarks.
	Cultivated.		Uncultivated.	
	Irrigated.	Unirrigated.		
3—15	80*	30	10	
15—17	300	120	30	Town lands of Rampur.†
17—27	50	25	5	

3-A. In addition to the data prescribed in paragraph 3, the Civil authorities should give a rough estimate of the amount of such further items (if any) as are likely to be included in an award based on section 23 (1) of the Land Acquisition Act, including, when necessary, an estimate of the capitalized value of abated land revenue and charges for establishment and contingencies. It will rest with the authorities, to whom the data prescribed by this paragraph and paragraph 3 above are supplied, to work out the total estimated cost of the acquisition including (in cases where voluntary surrender is not probable) the additional 15 per cent laid down by section 23 (2) of the Act.

4. When the work is confined to a single district the application should be made to the district officer ; when it extends to more than one district, but lies within a single division, to the Commissioner ; when to more than one division, to the chief revenue authority of the province. When the estimated value of the land exceeds Rs. 25,000 in any district or one lakh in any division, the data must be forwarded to the Public Works Department authorities through the Commissioner of chief revenue authority respectively, who will countersign them and be responsible for them.

5. General rules should be framed in every province for the guidance of officers in estimating the value of land taken up under the Land Acquisition Act. It must be remembered that, while the owner of the land possesses the power of appeal from the award of the Collector, Government is deprived of that power, solely because it possesses executive control over his operations ; and it is most important that such control should be efficiently exercised in the interests of the general taxpayer. The rules should lay down the data which should be collected and the principles upon which the award should be based.

6. When any considerable area of land is to be taken up for public purposes, a special officer should be deputed for the purpose, and care must be taken in his selection. Any special instructions that may be considered

* NOTE.—Land under tea will average about Rs. 800 per acre.

† NOTE.—Land within municipal limits will cost about Rs. 900 an acre, and in the town itself, say Rs. 3 a square yard.

necessary in addition to the general rules above mentioned, should be carefully framed for his guidance, as for instance when land under tea or indigo has to be taken up. He should be furnished with the data mentioned in paragraph 3, and provision should be made for the exercise of effective control over his operations by the Collector of the district, to whom all his awards should be reported, so far as to show the area, kind of soil, rate per acre, and total amount in each case. Provision should be made that, in case of any proposed award exceeding largely the estimated rate, and the award being such that it will be the basis of or constitute a precedent for any very considerable expenditure, it should be reported for the Collector's approval *before* being announced. And if in the course of his proceedings the special officer finds that his awards are likely to exceed the aggregate estimate for the district by, say, 25 per cent or more, a report should be submitted through the Collector to the Commissioner (and if the excess involved exceeds a lakh of rupees, to the Local Government) and further announcement of awards suspended till the latter's orders are received.

7. Whenever it is found that the original rates were materially under-estimated, and no sufficient reason is apparent, the officers responsible for them should invariably be called on to explain, as in no other way can the importance of framing the original estimates with care be effectually brought home to them.

8. Such are the general principles which the Government of India desire to see observed in the matter. The conditions of the several provinces vary so widely that details must be left to Local Governments. But all Local Governments and Administrations should proceed to frame rules giving general effect to the above principles and indicating the points as to which supplementary instructions will be required, based upon the circumstances of each individual case.

APPENDIX L.

Principles to regulate transfers of State lands and buildings.

[Government of India, Finance Department, Resolution No. 295-A, dated the 19th January 1910.]

The Government of India have had under consideration the principles which should regulate the transfer of State lands and buildings between the Imperial and Local Government and from one Department of the Imperial Government to another.

2 The general position of all State lands in India is as follows :—

Their ownership vests in His Majesty's Secretary of State, and thus the property in them appertains neither to a Local Government nor to any particular Department. They are ordinarily administered by the Local Government of the Province in which they are situated, subject to law, to any rules made or sanctioned by the Government of India and to the general executive control of the Supreme Government. When State land is made over to the occupation and management of any Department of Government, it is made over for the purposes of that Department and cannot be used by it for other purposes. The Department has no property in the land, its interest being confined merely to a right of occupation and user ; and, when the land is no longer needed as likely to be needed by the

Department concerned, it reverts to the administration of the Local Government. If in any case the Local Government considers that land should be withdrawn from the occupation of an Imperial Department, and the Head of the Department does not agree, the Local Government should refer the matter for the orders of the Government of India.

3. The existing rules regarding the adjustment of the value of buildings transferred from one Department of Government to another, as laid down in paragraph 1508 of the Public Works Department Code, Volume II, are as follows :—

I. If the building is transferred from one Imperial Department or service to another, no change is made.

II. If from Imperial to Provincial, or *vice versa* no change is made, provided the transfer causes no expense to the transferring service.

4. The Governor-General in Council considers that the foregoing rules regarding the transfer of State lands and buildings should be maintained in principle. Experience, however, has shown that they are not suitable for application to Commercial Departments for which regular capital and revenue accounts are kept. It has accordingly been decided that, if any land or building is transferred to or from such a Department, the full market value of the land or building transferred shall be debited or credited, as the case may be, to the Department; and effect has already been given to this decision in the case of land acquired for, or relinquished by, railways by the Railway Department Circular* No. 712 R.C., dated 4th March 1909. Subject to this exception, the existing orders will continue to apply to transfers of lands or buildings between Imperial Departments, and such a Department may not sell or otherwise part with State lands or buildings, unless specially authorized to do so by the Government of India. As regards transfer of lands or buildings between the Government of India and a Local Government, the existing rules will ordinarily apply. Cases may, however, arise in which the transferring Government may have an equitable claim to compensation. Such cases will be dealt with on their merits by the Government of India which will decide, with special reference to the circumstances in which the occupation of the property originated, and to the expense which the transferring Government has to incur as a direct consequence of the transfer, the amount of compensation, if any, which shall be paid.

5. The conclusions of the Government of India as set forth above are embodied in the rules appended to the Resolution.

Enclosure to Appendix L.

1. If any State land or building in the occupation of a Local Government is transferred to the Government of India, or *vice versa* the amount of compensation, if any, to be paid from Imperial to Provincial revenues, or *vice versa* shall be determined with due regard to the circumstances in which the occupation of the property originated, and to the expense which the transferring Government has to incur as a direct consequence of the transfer.

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* This circular has since been superseded by that printed as Appendix F.

2. When lands or buildings in the possession of a Department of the Government of India are no longer required for the purposes of that or any other Department of the Government of India, they shall ordinarily be relinquished to the Local Government concerned on such conditions as may in each case be agreed to, and shall then be administered by that Government.

3. An Imperial Department in administrative possession of State lands, or buildings may not sell or otherwise part with them except under such orders as the Government of India may frame in this behalf.

4. When any land or building is transferred from one Department of the Government of India to another, the transfer shall be free of all charge, save as provided in the next rule following.

5. If any land or building is transferred to or from a Commercial Department, for which regular revenue and capital accounts are kept, the full market value of the land or building transferred shall be debited or credited, as the case may be, to such Department.

Appendix M.

Conditions for grant of immovable public property to local authorities for public buildings.

[No. 914-A, dated 19th February 1902.]

[Resolution by the Government of India, Department of Finance and Commerce.]

Read—

Resolution in the Finance and Commerce Department, No. 4374, dated 23rd October 1891, directing that when any immovable public property is made over to a local authority for public purposes, the grant shall be made expressly on the condition, in addition to any others that may be settled, that, should the property be at any time resumed by Government the compensation payable therefor shall in no case exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any buildings erected or other works executed on the land by the local authority.

Resolution.—The Governor-General in Council considers it desirable that the condition laid down in the Resolution read above, in the case of grants of immovable public property to local authorities for public purposes, should be attached generally to all grants of such property whether for public, religious, educational, or any other purposes. His Excellency in Council also considers that these grants should in all cases be made subject to the further condition that the property shall be liable to be resumed by Government if used for any purposes other than those for which the grants are made.

2. In future, therefore, whenever a grant is made of any immovable property, the property shall be granted expressly on the following conditions, in addition to any others that may be settled in particular cases, viz :—

(1) that the property shall be liable to be resumed by Government if used for any other than the specific purpose or purposes for which it is granted ; and

(2) that, should the property be at any time resumed by Government, the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever shall be the less, of any buildings erected or other works executed on the land by the grantees.

Appendix N.

Principles and procedure relating to the leasing of railway lands.

[Railway Board's Circular Letter No. 3222 R.G., dated 26th November 1912.]

Leasing of railway lands.

I am directed to say that the Railway Board have been legally advised that, having regard to the provisions in the contracts entered into between the Secretary of State for India and Railway Companies, which require a company to go out of possession of such lands as are unnecessary to be retained for purposes of the contract, it is not permissible for such Railway Company to lease any part of such lands without the concurrence of the Secretary of State even in cases where the lands to be leased are to be utilized in connexion with the carrying out of a railway purpose.

2. In cases where railway land may be required by outsiders for any purpose which can fairly be held to be a purpose of the undertaking such, for example, as those marginally-quoted, the Railway Board are advised that the necessity for obtaining their approval to a lease may be avoided only by the grant of a licence permitting the use of railway lands for the purpose contemplated, while, at the same time, imposing such restrictions as may be necessary in the circumstances of the individual case.

(i) Erection of oil installations.
(ii) Warehouses, wharfs, or other premises for storing goods after arrival or before despatch by rail.
(iii) Shops for station vendors.

3. A licence may also be granted to outsiders for the laying of pipes, the installation of electric wires, or other such necessary purpose, and to railway servants for the purpose of cultivation, etc.

4. A sample copy of a licence form is attached for information. This form applies to bulk oil depots only, but it may be readily adapted with legal advice to suit other classes of operations connected with a railway, and I am to suggest that it should be freely used in future in preference to entering into a lease.

5. In cases, however, where application is made by outsiders for the lease of railway land for purposes *not* connected with the working of a railway, the following principles should be observed :—

(*i*) If such land is no longer required for the purposes of the railway, or is required only in the distant future, the land should be relinquished outright to the Local Government concerned, to be dealt with in accordance with the procedure laid down in paragraphs 4 and 5 of Government of India, Public Works Department, letter No. 1628 R.C.,* dated 17th October 1904.

* Vide Appendix I.

(*ii*) If, on the contrary, the plot of railway land applied for will be required in the near future, or is so situated that it would be inconvenient to relinquish it, the plot may be leased or a licence granted for its use only with the approval of the Railway Board. In these circumstances the Local

Government should be consulted by the Railway Administration before the lease or licence is submitted to the Railway Board.

6. In conclusion, I am to observe that the principles enunciated above should be strictly adhered to in dealing with future cases; these principles need not, however, be held to affect those leases which have already been executed.

ANNEXURE TO APPENDIX N.

An agreement made this day of 19 *between the* *hereinafter called "the Administration" of the one part and hereinafter called "Licensee(s)" of the other part Whereby it is agreed* as follows :—

1. The licensee(s) shall have the use of the piece of land described in the schedule hereto for the purpose of constructing and maintaining thereon tanks, buildings, and other conveniences for the reception and storage of, and receiving and storing thereon, kerosene oil in bulk, subject to such rules, regulations, and by-laws as may from time to time be made by, or on behalf of. the Administration or by, or on behalf of, any local authority in relation to the transport, discharge, and storage of kerosene oil, and subject to the conditions hereinafter contained.

2. No oil shall be stored or placed on the said land except in some tank or receptacle approved by the Manager for the time being of the (hereinafter referred to as the said Manager).

3. The licensee(s) shall, before proceeding to construct any tank or other receptacle for oil or any building or other erection on the said land, give notice in writing thereof to the said Manager specifying the proposed site of the convenience intended to be constructed and furnish to him a detailed plan, elevation and specification of such convenience and the licensee(s) shall not construct such convenience save on such site and in accordance with such plan, elevation, and specification thereof as shall be first approved by the said Manager.

4. The licensee(s) shall allow the said Manager free access at all times to the said land and to all tanks, buildings, works, and conveniences of the licensee(s) thereon whether completed or in course of construction and the licensee(s) shall whenever so requested by the said Manager forthwith pull down, rebuild, replace, or repair any part or parts of such tanks, buildings, works, or conveniences which the said Manager shall consider to be improperly situated or of defective design, construction, or material, or in want of repair.

5. The licensee(s) shall from the day of 19 pay to the Administration a rent of Rs. per annum which shall be paid on the last day of the month for which the same shall become due and shall also duly pay all cesses, rates and taxes payable as from the said date in respect of the said land and the tanks, buildings, works, and conveniences of the licensee(s) thereon for the time being and the proportion of all the cesses, rates, and taxes of the station premises applicable to the said land, tanks, buildings, works, and conveniences if the same be not separately assessed in respect thereof.

6. The licensee(s) shall not transfer or sub-let the privileges in clause 1 hereof mentioned without the consent in writing of the said Manager.

7. No sale of oil shall take place at any depot without the prior consent in each case of the local civil authorities which must be obtained by, and at the cost of the licensee(s).

8. The said privileges in clause 1 hereof mentioned are granted on the express understanding that either party may be at liberty to determine and put an end to this licence by giving to the other of them at any time three calendar months' notice in writing and such privileges may be so determined by the Administration without any claim for compensation whatever on the part of the licensee(s) and on the expiration of such notice the licensee(s) shall discontinue to use and shall yield up to the Administration the said land together with all such tanks, buildings, works, and conveniences of the licensee(s) thereon as the Administration shall elect to purchase as hereinafter mentioned.

Upon such notice of determination being given as aforesaid the Administration shall have the option to be signified by the said Manager by notice in writing to the licensee(s) at any time before the date on which this licence shall determine of purchasing all or any of the tanks, buildings, works, and conveniences of the licensee(s) upon the said land at a price equal to the actual cost of construction thereof less.

Such of the said tanks, buildings, works, and conveniences as the Administration shall not elect to purchase shall be pulled down and removed from the said land by the licensee(s) at the licensee(s)' own expense within two calendar months after the determination of this licence and the licensee(s) shall within the period last aforesaid at the licensee(s)' own expense restore to its former condition the land forming the site thereof and if default shall be made herein the Administration may after the expiry of the said period carry out so much of such pulling down, removal, and restoration as the licensee(s) shall fail to complete and may sell any materials and things so removed and all expenses incurred therein shall be paid by the licensee(s) to the Administration on demand.

9. Nothing herein contained shall be construed to create a tenancy in favour of the licensee(s) of the said premises and the Administration may of their mere motion upon the determination of this licence re-enter upon, and re-take, and absolutely retain possession of the said land.

10. The licensee(s) shall at all times keep the Administration indemnified against and shall reimburse to the Administration all claims, demands, suits, losses, damages, costs, charges, and expenses whatsoever which the Administration may sustain or incur by reason or in consequence of any injury to any person or to any property resulting directly or indirectly from the explosion, combustion, or leakage of any oil kept or placed by th licensee(s) upon the said land or by reason or in consequence of the non-observance or non-compliance on the part of the licensee(s) with any rule regulation, or by-law referred to in clause 1 hereof.

11. The licensee(s) shall pay all the cost of the stamping and execution of this agreement.

As witness the signatures of the parties hereto the day and year first above written.

Witness to the signature of the Manager of the
for and on behalf of the
Witness to the signature of

Page 216, *Annexure to Appendix N to Appendix III.*—*Substitute* the following *for* the existing clause 8 :—

8. The said privileges in clause I hereof mentioned are granted on the express understanding that either party may be at liberty to determine and put an end to this licence by giving to the other of them at any time three calendar months' notice in writing, and such privileges may be so determined by the Administration without any claim for compensation whatever on the part of the Licensees, and on the expiration of such notice the Licensees shall discontinue to use and shall yield up to the Administration the said land.

The petroleum installation, buildings and other works erected by the Licensees except such portions of the installation, buildings and other works as may be taken over by the Administration on terms to be mutually agreed upon between the Administration and the Licensees, shall be pulled down and removed from the said land by the Licensees at the Licensees' own expense within two calendar months after the determination of this licence, and the Licensees shall within the period last aforesaid at the Licensees' own expense restore to its former condition the land forming the site thereof, and if default shall be made herein, the Administration may after the expiry of the said period carry out so much of such pulling down, removal and restoration as the Licensees shall fail to complete and may sell any material and things so removed and all expenses incurred therein shall be paid by the Licensees to the Administration on demand.

[XIX list, 30-6-30]

Appendix O

Government of India, Department of Revenue and Agriculture, Circular No. 11, *dated Calcutta, 22nd December* 1908, *to all Local Governments and Administrations (except the United Provinces).*

In continuation of this Department's Circular No. 9-292-1, dated 28th June 1906, I am directed to forward, for the information of the Governor in Council / the Lieutenant-Governor / your information a copy of the marginally* -noted correspondence regarding the high cost of acquiring a plot of land in Lucknow for use as a brickfield in connexion with the Military Works Services.

* Not printed.

2. It will be observed that in this case the Collector's award for the land amounted to Rs. 3,631-11-7, and that on appeal this was enhanced to Rs. 14,665. The enhanced award was considerably in excess of the sum which the Military Works Department was prepared to pay for the land, but it was impossible to withdraw from the acquisition as possession had been delivered soon after the Collector had made his award. Steps have been taken to draw the attention of officers of the Military Works Department to the necessity of caution in taking possession of land acquired in cases where it is possible that the Collector's award may be greatly enhanced on appeal and paragraph 801 of the Public Works Department Code (9th edition) has also been amended recently with the same object. It has further been suggested to the Government of India that it would be an additional safeguard against the recurrence of such cases as that which has given rise to this correspondence if the co-operation of revenue officers employed in land acquisition work were also secured in protecting the interests of Government.

3. The Government of the United Provinces has already taken action in this direction and an amendment has recently been made in the rules for procedure under the Land Acquisition Act in the United Provinces to the effect that if the Collector's awards, as finally settled after objection petitions have been heard, exceeds by more than 20 per cent the preliminary estimate of the cost of acquisition prepared before the issue of a notification under section 6 of the Act, or if the evidence is conflicting and such as to indicate the possibility that a civil court may award a sum similarly exceeding that estimate, he should not immediately announce the award but should inform the departmental officer of the facts. Further action is then postponed until the proper authority has decided whether the acquisition should be proceeded with or not. The Government of India thinks that a rule of this kind is likely to be useful, and I am to ask that, if there is no objection, it may be considered whether a similar rule might not be introduced with advantage into the rules for procedure under the Land Acquisition Act.

APPENDIX IV.

I

RESOLUTION OF THE GOVERNMENT OF INDIA, FINANCE DEPARTMENT (ACCOUNTS AND FINANCE—LAND AND BUILDING), No. D. 3428-A, DATED THE 10TH DECEMBER 1925.

His Majesty's Secretary of State for India in Council has been pleased to prescribe the following rules to regulate the transfer of State lands and buildings between the Government of India and the local Government of any Governor's Province;—

1. The ownership of land now or hereafter in the occupation of a Government in India vests in the Crown; the Government of India or the local Government, as the case may be, has the right of user for the effective discharge of its duties under the Government of India Act, and section 30 of the Government of India Act has no application to transfers between Government and Government.

2. (*a*) The Government of India has the right to remain in undisturbed possession of any land in its occupation in any province on the 1st April 1921, subject to the conditions then ruling, so long as such occupation is necessary for the effective discharge of its duties.

(*b*) A local Government has no power without the consent of the Government of India to alienate or in any way to interfere in regard to land situate within the provincial boundaries which is in the occupation of the Central Government.

3. If the local Government is of opinion that land in the occupation of the Government of India is not being used for the purposes originally intended and is not required by that Government for the effective discharge of its duties, the local Government shall be entitled to make a representation on the subject to the Government of India and in the event of a difference of opinion arising between the two Governments, to request that the matter may be referred for the decision of the Secretary of State in Council.

4. When the Government of India no longer require land which is in its possession, the local Government of the Province in which it is situate shall be given the option of assuming possession of the whole or any portion thereof, subject to the conditions laid down in the following classes; provided that, when the local Government desires to assume possession of only a portion of the land surrendered, it shall, only be entitled to do so if the value of the land not taken over is not materially reduced by the division.

5. In the case of land acquired by the Government of India in any province before the 1st April 1921 and surrendered after that date to the local Government the amount of compensation, if any, payable to the Government of India by the local Government to whom possession is surrendered in any given case shall be determined in accordance with the principles set out below :—

I. (A) In the case of land other than that relinquished by a Railway administration if the surrender of land results in expenditure to the Government of India for the acquisition of an alternative site, or if, in the case of

land surrendered by the military authorities, the land was actually being used by them for the effective discharge of their duties, the amount of compensation payable by the local Government shall be limited to the market value of the buildings, if any, *plus*

(*a*) the cost, if any, of acquisition and improvements of the land, or
(*b*) half the market value of the land,

whichever is greater.

(B) In other cases the amount payable by the local Government shall be limited to the market value of the buildings, if any, *plus*

(*a*) the cost, if any, of acquisition and improvements, or
(*b*) the market value of the land,

whichever is less :

Provided that in the case of land surrendered by the military authorities in Presidency towns, Rangoon, Karachi, or any cantonments in which the land has a specially high value, the terms on which the land shall be transferred shall be decided by mutual arrangement under rule 9 below.

II. In the case of land relinquished by a Railway administration, the local Government shall be required to pay to the Government of India or the Railway administration, as the case may be, the market value of the land and buildings surrendered.

6. In the case of land acquired by the Government of India in any province after the 1st April 1921, the amount payable by the local Government on re-transfer shall be the market value of the land and buildings.

7. If the local Government does not desire to assume possession on the foregoing terms, the Government of India shall be free to dispose of the land to a third party in such manner as it thinks fit after consultation with the local Government regarding the manner of disposal and conditions, if any, which should be laid down for the use of the land after sale.

8. A local Government shall be bound to acquire and hand over to the Government of India any land in the Province required by the Government of India for the effective discharge of its duties on payment (*a*) if the land is not in immediate occupation of the local Government, of the cost of acquisition, or (*b*) if the land is in its immediate occupation, the market value: provided that the Government of India shall have the right to refer to a competent tribunal, or with the agreement of the local Government to arbitration, the question of the reasonableness of the payment demanded.

9. The foregoing rules shall not be held to preclude a settlement by mutual arrangement between the Government of India and the local Government or Governments concerned, even though the terms of the settlement may be inconsistent with them.

10. If any question arises between the Government of India and the local Government in regard to the application of these rules, the matter shall be referred to the Secretary of State in Council for decision, if the local Government so desires.

II

Letter from the Secretary, Railway Board, to the Agents, Assam-Bengal, Bengal-Nagpur, Bengal and North Western, North Western, Bombay, Baroda and Central India, Burma, East Indian, Eastern Bengal, Great Indian Peninsula, Madras and Southern Mahratta, Rohilkhand and Kumaon and South Indian Railways, and the Officers in charge, Aden Railway, dated the 4th October 1926, No. 412-F/18.

[Acquisition and relinquishment of land by railway administrations.]

In continuation of this Office Memorandum No. 412-F/18, dated the 15th February 1926, forwarding Finance Department Resolution No. D -3428-A, dated the 10th December 1925, regarding rules regulating the transfer of State lands and buildings between the Government of India and the local Government of any Governor's Province, I am directed to state that these rules supersede the earlier rules promulgated in Railway Board's Resolution No. 412-F/18, dated the 15th May 1919, in so far as the latter are inconsistent with the former.

No. 412-*F*/18, *dated* 4*th October* 1926.

Copy forwarded for information and guidance to the Government of Madras, Revenue Department, with reference to their letter No. 1272-E.A./24-6, dated the 31st May 1926, with the request that all outstanding cases may be disposed of in accordance with the foregoing orders.

(By order)

P. R. RAU,
for *Secretary, Railway Board.*

APPENDIX V.

GOVERNMENT OF INDIA RESOLUTION, No. 13-44/13, DATED 30TH OCTOBER 1896, DEPARTMENT OF REVENUE AND AGRICULTURE, REGARDING DISPOSAL OF LAND WHICH IS NO LONGER REQUIRED FOR THE PUBLIC PURPOSE FOR WHICH IT WAS ACQUIRED.

The Government of India desire therefore that whenever *agriculturzl or pastoral land* has been acquired for public purposes, whether by private purchase or by compulsory acquisition and is no longer required for such purposes, the disposal of it may be guided by the following general considerations :—

In the first place all proprietary rights and all rights of occupancy which were extinguished by the acquisition should be first offered to the persons from whom they were acquired, or to their heirs if discoverable ; the former (where both kinds of rights co-existed) being made subject to the latter under the provisions of the Crown Grants Act (XV of 1895).

In the second place the price at which these rights are offered should be the amount of compensation originally paid for them, less the 15 per cent in excess of the value which will have been paid if the acquisition was compulsory. This price may be reduced, if necessary, on account of any deterioration that may have taken place in the fitness of the land for agricultural or pastoral purposes while it was in the occupation of Government, but it should not be increased, except in the case stated below, on account of any rise in its market value during that period.

In the case of plots which by reason of their size or shape are practically of no value to any one but the owners of the adjoining land, if those owners are not entitled to the first offer as above, they ought nevertheless to receive the first offer ; but in that case there is no objection to asking the market value, though the reasonable offer of a neighbouring holder should always have the preference over that of an outsider.

The superior Revenue authority will, of course, always retain and exercise discretion in the application of the general rule about the charge of cost price. Special cases will occur, and exceptions will be justifiable, as for example when the persons first entitled are remote descendants or relations of the original holders, or when the rise in the market value of the land has been so exceptionally great as to take the case out of the general rule. The Government of India lay down no hard-and-fast rule, but only principle for general guidance.

It will be observed that the above principles apply to agricultural and pastoral land only, and not building-sites or town lands.

2. It will be for Local Governments and administrations to issue instructions adapted to local circumstances in general conformity with the above considerations. Those instructions will be mere executive instructions ; and greatest care should be taken to avoid anything which might have the semblance of conferring a right, or of affording a basis for any claim either as against Government or as between private parties, and to make it clear that the concessions in question are made as an act of grace, and are wholly within the pleasure of Government to grant or to refuse in any particular case.

APPENDIX VI.

RULES FOR THE DEMARCATION OF LANDS ACQUIRED FOR THE PUBLIC WORKS DEPARTMENT.

(*a*) All lands acquired for the Public Works Department should have the boundaries marked by demarcation stones, except where a wall runs along the boundary. The demarcation should be done by the acquisition officer, the demarcation stones being provided by the Public Works Department.

(*b*) Demarcation stones should be made of cement concrete (without reinforcement) except where it is cheaper to use granite or other durable stone. The use of laterite is prohibited and demarcation stones should not in future be fixed in concrete.

(*c*) The prescribed dimensions are 2′ × 6″ × 6″. The letters **P.W.**—4″ high and a broad arrow should be cut on one side of the stone. It should be dressed for a height of one foot only and imbedded in the ground to a depth of one foot. If the demarcation stone is made of cement concrete it should follow the design K.C. No. 71/1913–14 (accompaniment to Chief Engineer's Dis. No. 1872, dated 28th October 1914) with the addition of the broad arrow.

(*d*) Demarcation stones should be fixed at all angles along the boundary and at all intersections of survey field boundaries.

(*e*) Wherever two adjacent Public Works demarcation stones fixed under the above rules by the land acquisition officer are more than one furlong apart, an extra Public Works demarcation stone or, if necessary, more than one stone should subsequently be fixed by the Public Works Department on the boundary so as to reduce the interval between two adjacent demarcation stones to less than one furlong. The additional stones fixed in such cases should bear the letters P.W. but not the broad arrow (as they will not be 'survey marks' fixed by the land acquisition officer).

(*f*) Provision will be made in all estimates for the above items.

(*g*) When survey fields are subdivided or re-surveyed in consequence of the acquisition of lands for public purposes at the cost of the Public Works Department such subdivisions or new survey fields should be demarcated by Revenue Department.

Page 222, *Appendix VI.*—*Insert* the following at the end of the last sentence of clause (*b*) :—

" except in the cases referred to in Standing Order No. 90–13 (v)."

[III list, 1–10–29]

Pages 223–224, *Appendix VII.*—*Substitute* the following *for* the existing paragraph 4:—

4. "A" class lands or lands required for permanent occupation must be surveyed as new whole survey numbers, about 10 chains in length.

"B" class lands or lands required for temporary occupation must be surveyed as subdivisions of the fields in which they lie.

"C" class lands or lands required for the provision or preparation of materials or for other miscellaneous objects, which the railway company has to provide at its own cost, may be surveyed as new fields or as subdivisions according as obliteration of old boundaries is involved or not. Important plots of lands should in all cases be surveyed as entire fields.

"D" class lands or read and channel diversions.—New roads and channels, if 50 links or more in width, should be surveyed as entire fields, about 10 chains in length. If below 50 links in width they should be surveyed as subdivisions of the field in which they lie, unless there is obliteration of field boundaries. In the latter case, the fields affected should be resurveyed, the entire width of the new road or channel being surveyed as subdivisions of resurvey fields. Small road or channel, diversions and extensions should be surveyed by altering the boundaries of the adjacent fields—vide sketch below:—

[Sketch as at present.]

The plots A, B, C, D are required for widening the old road where it crosses the railway. They should be surveyed by altering the boundary of the old road survey field so as to include them.

The foregoing is the classification of land in the case of railways constructed by companies which receive land free of cost. But in the case of railways constructed by Government or by companies not entitled to receive land free of cost under their contracts, land is divided into two classes:—

I. Permanent land (i.e.) land which will be required permanently after the work of construction is complete and the railway is open to traffic.

II. Temporary land (i.e.) land which is required for temporary purposes only and which should be relinquished after the work of construction is complete. Permanent lands correspond to "A" class lands and should be surveyed as new fields of about 10 chains in length. Temporary lands should only be surveyed as subdivisions of the fields in which they lie.

[III List, 1-10-29]

Page 223, *Appendix VII, paragraph* 1.—(i) *For* "Land Records Superintendent of the group" *read* "Collector of the district."

(ii) *Paragraph* 2.—*For* "B.S.O. No. 90–18 (ii)" *read* "B.S.O. No. 90–13 (iv) (*a*)."

(iii) *Paragraph* 7.—*For* "Appendix V to B.S.O. No. 34-A" *read* "Appendix VII to B.S.O. No. 34-A."

[III list, 1–10–29]

APPENDIX VII.

RULES FOR THE GUIDANCE OF SPECIAL OFFICERS ENGAGED IN THE SURVEY OF LANDS ACQUIRED FOR RAILWAYS.

1. The Special Acquisition officer should consult with the Land Records Superintendent of the group concerned as to the *details* of the method of survey to be employed. These must necessarily vary with the nature of the existing survey of the tract and its condition as regards maintenance. The general lines on which the survey should be conducted are given below.

2. The Special Acquisition officer is responsible for the accuracy of the survey work done by his staff—vide Board's Standing Order No. 90, 18 (ii). He should check their work both in the field and in the office and satisfy himself that it has been done properly.

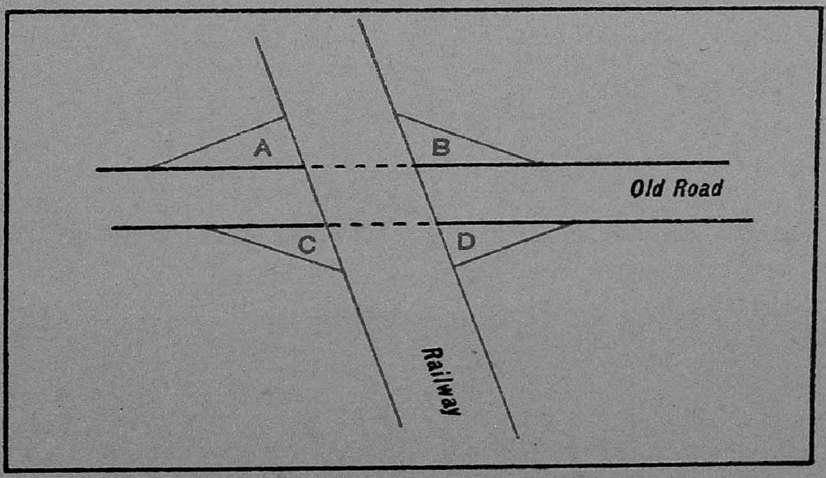
3. The land plans furnished by the Railway Department will show *separately* the boundaries of A, B, C and D class lands in the case of railways constructed by Companies and, in the case of railways constructed by the State or by Companies in which the classification of A, B, C and D class lands does not exist, the land plans will show *separately* the boundaries of the lands required for (1) permanent occupation, (2) temporary occupation and (3) road and channel diversions, etc. The different classes of lands should be pegged and lock-spitted on the ground by the Railway Department, and should be surveyed *separately* from one another.

4. A class lands or lands required for permanent occupation must be surveyed as new whole survey numbers, about 10 chains in length.

B class lands or lands required for temporary occupation must be surveyed as subdivisions of the fields in which they lie.

C class lands may be surveyed as new fields or as subdivisions according as obliteration of old boundaries is involved or not. Important plots of land should in all cases be surveyed as entire fields.

D class lands or road and channel diversions.—New roads and channels, if over 50 links in width, should be surveyed as entire fields, about 10 chains in length. If below 50 links in width they should be surveyed as subdivisions of the field in which they lie. Small road or channel diversions and extensions should be surveyed by altering the boundaries of the adjacent fields—*vide* sketch below :—



The plots A, B, C, D are required for widening the old road where it crosses the railway. They should be surveyed by altering the boundary of the old road survey field so as to include them.

5. All new survey fields must be demarcated with field stones. Subdivisions need not be demarcated. All old survey stones falling within the new survey fields should be pulled out and used for demarcating the new survey fields. No fresh measurements should be based on lines running to these old stones on any account. On the other hand, as all the recorded measurements to these stones will be useless for future maintenance, fresh measurements must be taken to replace them. This amounts to resurveying the old fields out of which the new fields have been formed, so far as may be necessary to give a plottable record of them. Examples are given in the sketch in enclosure II.

6. For calculating the areas of the portions of old fields and subdivisions acquired, a tracing should be made from the field measurement book of each old survey number involved. On this tracing, the boundaries of the new survey numbers and subdivisions should be laid down from the measurements obtained. From this record, the area of each portion acquired can be computed by means of area square paper. The portions acquired should be given a series of temporary subdivision numbers to facilitate reference; examples are given in the sketch in enclosure III.

7. The Special Acquisition officer should prepare a statement in the form given in appendix V to Board's Standing Order No. 34-A for all temporary subdivisions made by him. The correspondence between these temporary subdivisions and the new and old fields and subdivisions should be carefully checked with the filed sketches and entered in an adjustment statement—vide enclosure I below.

Page 224, *Appendix VII.*—(i) *For* the first three sentences of paragraph 5 *substitute* the following :—

All new survey fields and *their poramboke subdivisions* must be demarcated with field stones. All old survey stones falling within the new survey fields should be pulled out and used for demarcating the new survey fields *and poramboke subdivisions.*

(ii) *Add* the following as paragraph 8 :—

8. The records to be prepared in these cases are—

(1) Plotted sketches in duplicate of all the fields as resurveyed.

(2) Temporary subdivision sketches and statements for the purpose of determining the compensation payable to the owners of the fields acquired.

(3) An adjustment statement, and

(4) A combined map showing at a glance the boundaries of old fields and those of the new fields and their poramboke subdivisions (vide enclosure III).

[III List, 1-10-29]

Page 224, *Appendix VII, paragraph* 7.—*For* the words "an adjustment statement" in the second sentence *substitute* the words "a statement of changes due to land acquisition."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

Pages 225–226, *Appendix VII, Enlcosure I—Statement of subdivisions and the adjustment statement as amended by Correction Slip No. III, dated* 1st *October* 1929.—*Substitute* the following statements *for* the statement of subdivisions and the adjustment statement of old to new survey numbers and subdivisions :—

ENCLOSURE I.

Statement of subdivisions in the village of (No.), taluk, district.

Number of present survey field or sub-division.	Its classification, survey area and assessment.			Names of present registered holders.	Particulars of the proposed subdivision.					Names of proposed registered holders.	Signature of parties.	Remarks.			Number of subdivisions in the field fit for clubbing and whether the holder thereof has any objection to their being clubbed.
	Dry, wet or poramboke.	Survey area.	Assessment.		Dry, wet or poramboke.	Subdivision number or letter.	Extent according to the area square.	Adjusted extent with reference to column (3).	Assessment.			Are there well-defined boundaries on the ground and whether the subdivisions have been duly demarcated where necessary.	Reasons for omission, if any, on the part of parties to sign in column (12).	Reasons for subdivision.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
		ACS.	RS. A.				ACS.	ACS.	RS. A.						
25-1 ...	Dry.	1·10	0 11	...	Dry	25 1-A	0·09	0·09	0 1	...	...	...	...	...	...
					Ry. permanent ...	1-B	0·26	0·26	...	...	...	...	...	...	...
					Ry. temporary ...	1-C	0·49	0·48	...	...	...	...	...	...	...
					Dry	1-D	0·27	0·27	0 3	...	...	...	...	...	...
							1·11	1·10	...	...	...	...	...	...	...

Statement of changes due to land acquisition.

Particulars of land before change.				Total number of subdivisions or new survey fields sanctioned.	Particulars of land after change. *Note.*—In case of lands re-surveyed only re-survey particulars should be noted.				When temporary subdivisions are made for purposes of compensation, temporary subdivision particulars corresponding to R.S. numbers or subdivisions.		Remarks. (Here enter explanation for discrepancies between areas as per particulars before change and particulars after change. Also note the award number and date.)
Survey numbers and subdivisions.	Description.	Area.	Assessment.		Survey numbers and subdivisions.	Description.	Area.	Assessment.	Temporary sub division number.	Area.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
		ACRES.	RS. A.				ACRES.	RS. A.		ACRES.	
25-1 ...	Dry.	1·10	0 11		25/A-1	Dry ...	0·09	0 1	25-1/A ...	0·09	A small portion of S. No. 28 has been adjusted against new S. No. 356 to make its boundary a straight line.
					25/A-2	Do. ...	0·12	0 1	25-2/A	0·12	
						Total ...	0·21		Total ...	0·21	
25-2 ...	Dry.	1·05	0 11		25/B-1	Railway Temporary.	0·87	...	25-1/C	0·48	
									25-2/C	0·39	
					2	Dry ...	0·27	0 3	25-1/D	0·27	
					3	Do. ...	0·25	0 3	25-2/D	0·25	
				8		Total ...	1·39		Total ...	1·39	
					26/A	Dry ...	0·47	0 5	26-1	0·47	
					26/B	Railway Temporary.	0·46	...	26-3	0·46	
26	Dry.	1·50	0 15		356	Railway permanent.	1·13	...	25-1/B	0·26	
					...		...	...	25-2/B	0·29	
					...	...	...	...	26-2	0·57	
					...	...	...	...	28-1	0·01	
						Total ...	...		Total ..	1·13	

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

Page 225, *Appendix VII, Enclosure I of Subdivision Statement.*—(*a*) *For* the words "Pattadars" in columns 5 and 11 *substitute* "Registered holders."

(*b*) *For* the existing column 7 *substitute* "Subdivision number or letter."

(*c*) *Substitute* the following *for* the existing column 13:—

"Are there well-defined boundaries on the ground and whether the subdivisions have been duly demorcated where necessary."

(*d*) *Add* the following as column 16:—

"Number of subdivisions in the field fit for clubbing and whether the holder thereof has any objection to their being clubbed."

(*e*) *Add* the following as notes (1) and (2) under the statement:—

NOTE (1).—The actual areas of the new subdivisions should first be computed by means of the area square paper and then adjusted in accordance with the instructions given in Appendix VIII to B.S.O. No. 34-A. The former extent should be noted in column 8 and the latter in column 9 of the subdivision statement.

(2) Details must be given in columns 1—5 for the subdivisions mentioned in column 16 as fit for clubbing.

[III list, 1-10-29]

Enclosure I.

Statement of subdivisions in the village of   taluk,   district.

Number of the present field or subdivision.	Its classification, survey area and assessment.			Names of present pattadars.	Particulars of the proposed subdivisions.					Names of proposed pattadars.	Signature of parties.	Remarks.		
	Dry, wet or poramboke.	Survey area.	Assessment.		Dry, wet or poramboke.	Letter or subdivision.	Extent according to the area square.	Adjusted extent with reference to column 3.	Assessment.			Whether the proposed subdivisions have been duly demarcated.	Reasons for the omission, if any, on the part of the parties to sign in column 12.	Reasons for subdivision.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
		ACS.					ACS.	ACS.						
					Dry	25/1	0·09	0·09	..	..	..	..	..	..
25-A	Dry.	1·10	..	..	Railway A class ..	25/2	0·26	0·26	..	..	..	..	..	..
					Railway B class ..	25/3	0·49	0·48	..	..	..	..	..	..
					Dry	25/4	0·27	0·27	..	..	..	..	..	..
					Dry	25/5	0·12	0·12	..	..	..	..	..	..
					Railway A class ..	25/6	0·29	0·29	..	..	..	..	..	..
25-B	Dry.	1·05	..	..	Railway B class ..	25/7	0·40	0·39	..	..	..	..	..	..
Total ..		2·15			Dry	25/8	0·25	0·25	..	..	..	..	..	..
					Total ..		2·17	2·15	..	..	..	..	..	..
26	Dry.	1·50	..	..	Dry	26/1	0·48	0·47	..	..	..	..	..	..
					Railway A class ..	26/2	0·59	0·57	..	..	..	..	..	..
					Railway B class ..	26/3	0·47	0·46	..	..	..	..	..	..
					Total ..		1·54	1·50	..	..	..	..	..	..

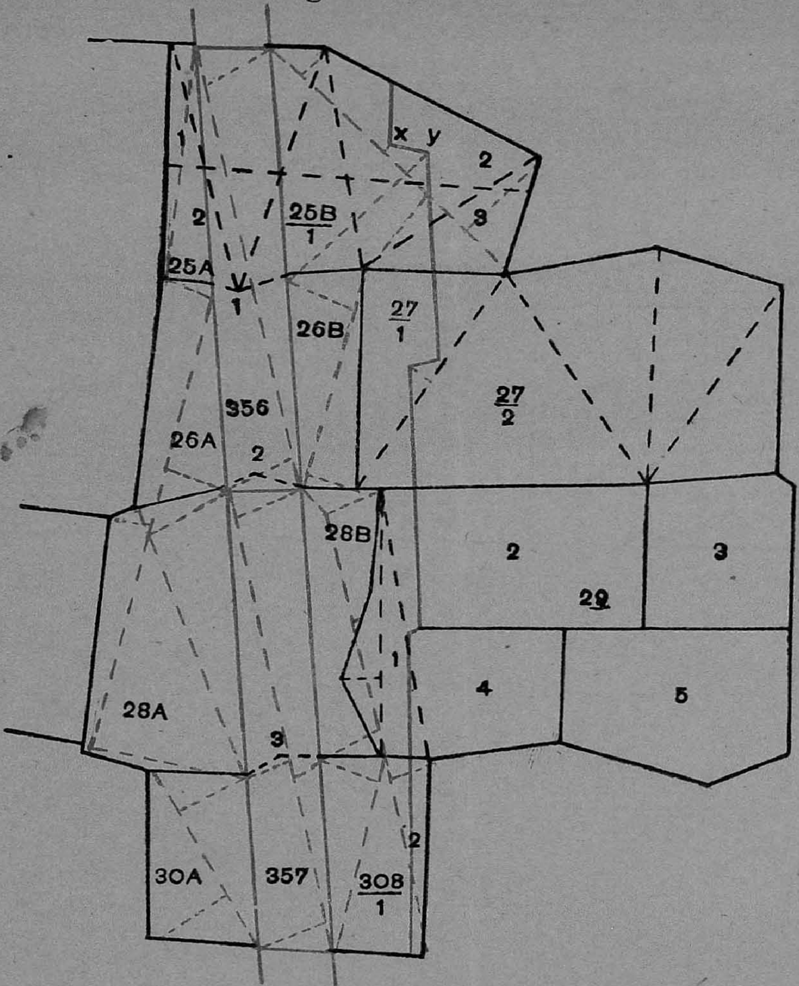
Adjustment statement of old to new survey numbers and subdivisions.

New survey numbers and subdivisions.	Area.	Corresponding temporary sub-division.	Area.	Corresponding old survey numbers or subdivisions.
	ACS.		ACS.	
Survey No. 356 ..	1·12	25/6 25/2 26/2	0·31 0·24 0·57	25/A part. 25/B part. 26 part.
Total ..			1·12	
25-A/A	0·09	25/1	0·09	25/A part
25-A/B	0·12	25/5	0·12	25/B part.
Total ..	0·21		0·21	
25-B/A	0·27	25/4	0·27	25/A part.
25-B/B	0·25	25/8	0·25	25/B part.
25-B/C	0·87	25/3 25/7	0·48 0·39	25/A part. 25/B part.
Total ..	1·39		1·39	
26-A	0·47	26/1	0·47	26 part.
26-B	0·46	26/3	0·46	26 part.

Page 226, *Appendix VII, Enclosure I—Adjustment Statement.*—*For* "Acres 0·31 and 0·24" in column 4 (areas of temporary sub-divisions 25/6 and 25/2) *substitute* "Acres 0·29 and 0·26," respectively.

[III list, 1-10-29]

Page 227, *Appendix VII, Enclosure II.—Substitute* the following sketch *for* the sketch given in this enclosure :—



(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

Page 227, *Appendix VII, Enclosure II—Reference.—For* the sentence " 356 and 357 = A class lands . . . B class lands " *substitute* :—

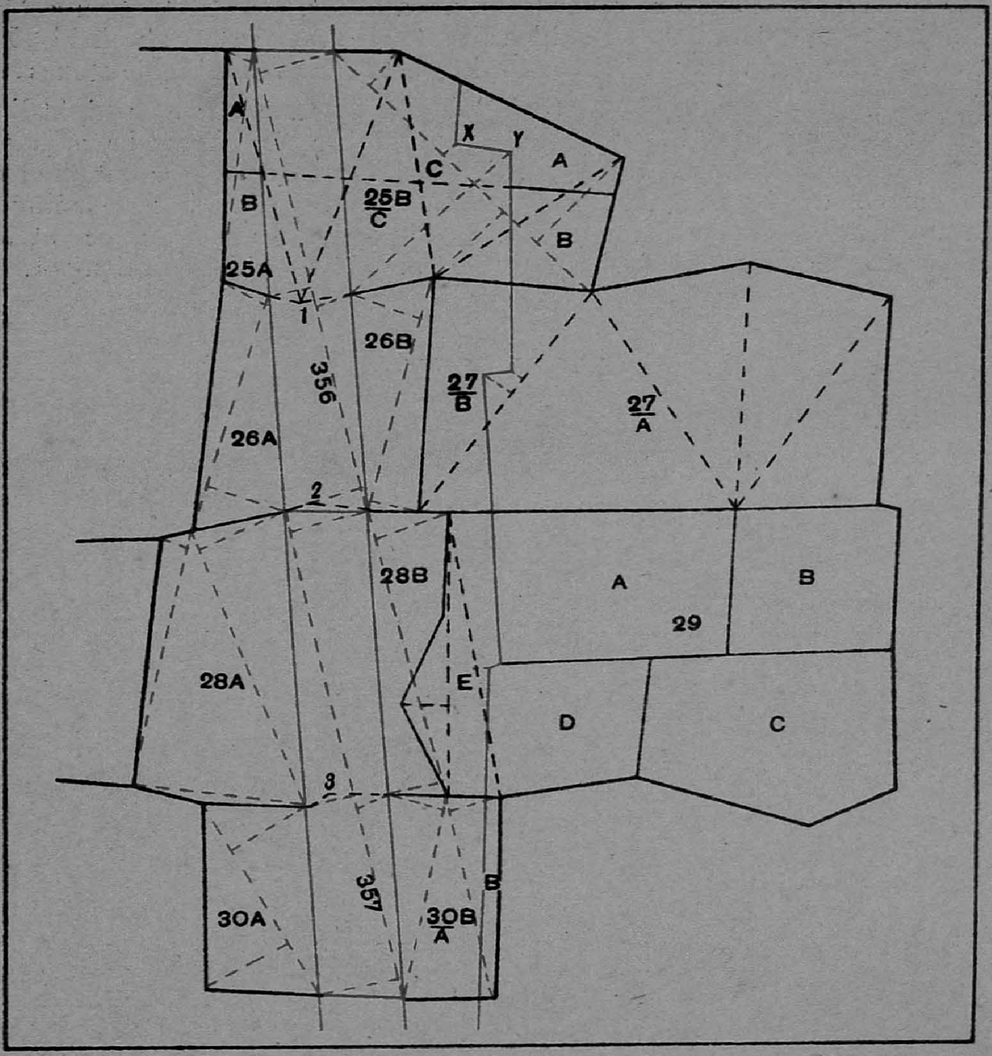
" 356 and 357 are lands required for permanent occupation.

25/B-1, 26/B, 27/1, 28/B, 29/1 and 30/B-1 are lands required for temporary occupation."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

ENCLOSURE II.



Reference.—Black ink lines represent the old measurements. Red ink lines represent the new measurements.

356 and 357 = A class lands.

$\frac{25\ B}{C}$, 26 B, $\frac{27}{B}$, $\frac{28}{B}$, $\frac{29}{E}$, $\frac{30\ B}{A}$ = B class lands.

The stones at 1, 2, 3 must be removed.

Old survey No. 25 which is divided into two pieces by the new survey No. 356 is to be numbered 25-A and 25-B, each of them being a *whole survey field.*

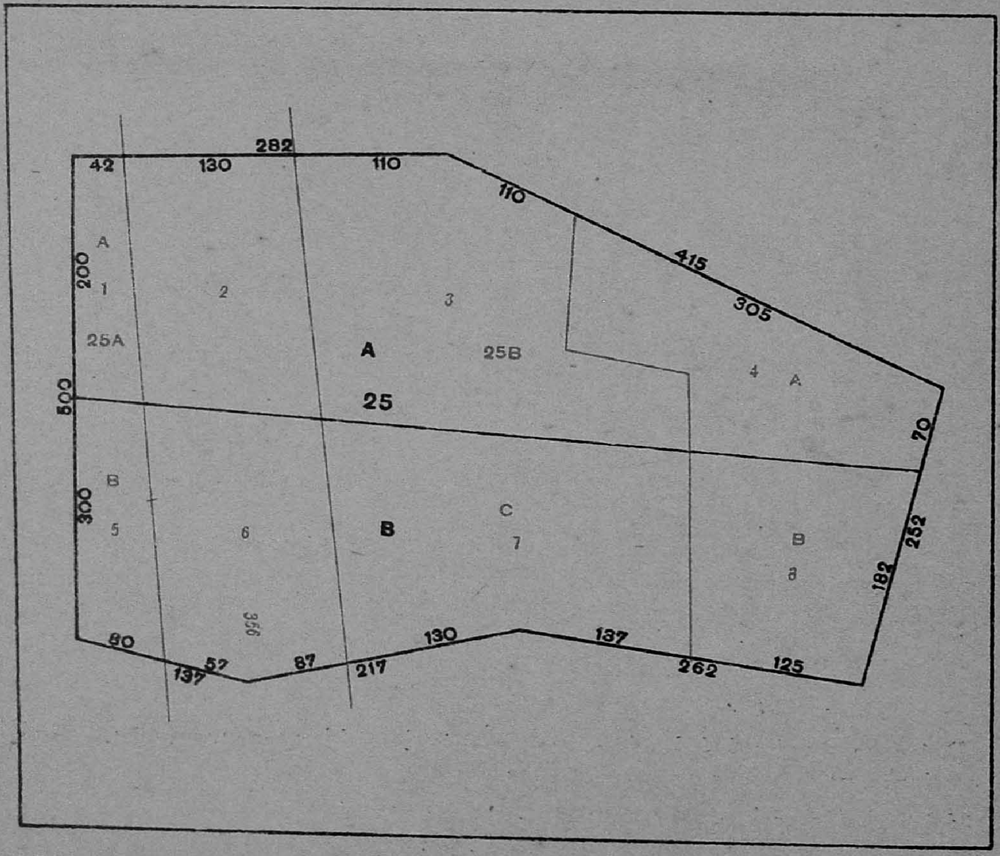
The B class land $\frac{25\ B}{C}$ consists of portions of old subdivision $\frac{25}{A}$ and $\frac{25}{B}$.

It need not be surveyed in two pieces $\frac{A}{2}$, and $\frac{B}{2}$, but can be taken as one new subdivision = C.

The subdivision points x, y, must, on no account, be offsetted on a 'G' line leading to the field stone 1 which has to be removed. The field 25 B has to be resurveyed on a 'G' line running between maintainable stones.

The boundary between 356 and 357 should be taken as a straight line. The fact that a small portion of old survey number 28 should be adjusted against new survey number 356 can be ignored for this purpose but the area of this portion acquired should not be overlooked in calculating according to rule 6 the areas of the portion acquired. The portion should also be entered as a separate temporary subdivision of the old field to which it belonged.

Enclosure III.



Scale in chains

~~Scale 1" = one chain.~~

Reference.—Blank ink lines and letters represent the old subdivisions of old survey field No. 25. Red ink lines and letters represent the new survey fields and subdivisions. The numbers 1, 2, 3, . . . 8 denote temporary subdivisions made for facilitating reference in subdivision statements, etc.

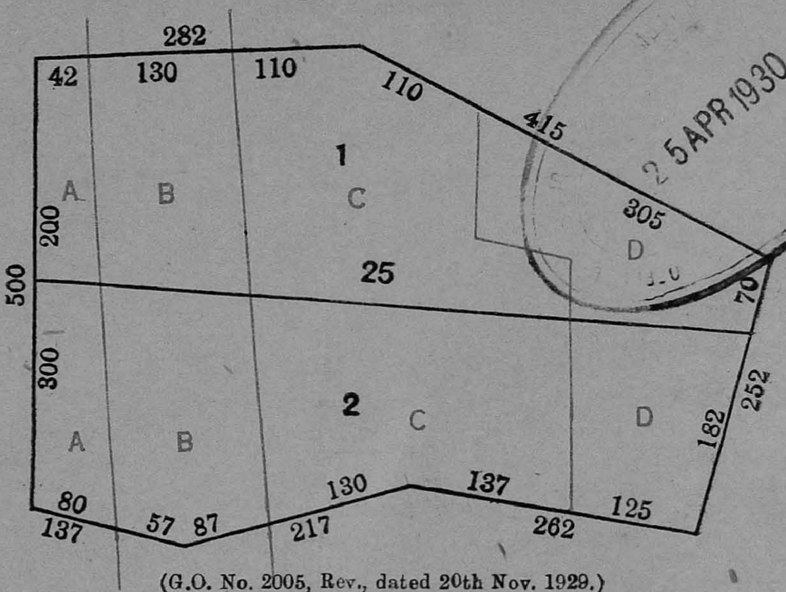
Page 228, *Appendix VII, Enclosure II—Reference.—For* the sentences "The B class lands . . . = C" *substitute* :—

"The railway temporary land 25/B-1 consists of portions of old subdivisions 25 and 25/2. It need not be surveyed in two pieces, but can be taken as one new subdivision."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29

Page 228, *Appendix VII, Enclosure III.—Substitute* the following sketch *for* the sketch given in the Enclosure :—



25 APR 1930

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

Page 228, *Appendix VII, Enclosure III—Reference.—For* the sentences "red ink lines . . . statements, etc," *substitute* :—

"Red ink lines and letters represent the temporary subdivisions formed."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]

8. It will be found useful in some cases to prepare a reconciliation map of the area acquired for a railway to form a permanent self-contained and maintained record of the results of acquisition. In each case the measure of the necessity for the preparation of this map will be the use to which it will be put subsequently; on which point the Railway Company acquiring the land should be consulted, and the number of copies required should be exactly estimated beforehand.

In the course of acquisition, the primary object of such a map is to detect errors in survey and in notation that may have been committed in the course of field work. This will be effected by a comparison of the land plans furnished by the Railway Company with the plotted record of the new fields formed on either side of the line. Errors which may be detected in the course of this plotting will be rectified by measurement. The combined resulting atlas should be plotted on scale 40″ = one mile in convenient lengths of about a quarter of a mile, so that portions of two villages are not shown on the same sheet. In this plot the full extents of all revenue survey fields dealt with by way of acquisition will be shown.

In addition a statement will be entered on each sheet of the areas of the land dealt with in the four classes A, B, C and D fieldwar. Each sheet should be signed finally by the land acquisition officer.

(G.O. Mis. No. 430, Revenue, dated 1st February 1918; B.P. No. 29, Settlement, dated 9th February 1918.)

APPENDIX VIII

Abstract of orders relating to the adjustment necessary in accounts on acquisition or relinquishment of land.

Items.	Description of land. (1)	When the cost of land is to be debited to the capital account of the railway.* (2)	When the cost of land is not to be debited to the capital account of the railway but is met by Government.* (3)
(*a*)	Land specially purchased for railways, (i.e., land in which rights amounting to a full proprietary title adverse to Government exist).	Actual expenditure incurred on acquisition including charges † for any special establishment, demarcation and contingencies, to be debited to the capital account of the railway.	Actual expenditure including charges † for any special establishment, demarcation and contingencies, to be debited to "40. Subsidised Companies—land."
(*b*)	Land, whether waste, forest, culturable or otherwise, which is already vesting in Government and transferred to a railway administration (i.e., land in which no rights adverse to Government exist).	Market value at the time of transfer, to be debited to the capital account of the railway.	Market value at the time of transfer, to be debited to "40. Subsidised Companies—land."
(*c*)	Land in which rights short of a full proprietary title adverse to Government exist (i.e., rights are divided between Government and a private individual).	Cost of rights acquired from private individual to be calculated as in item (*a*) and of those owned by Government as in item (*b*) above.	Cost of rights acquired from private individual to be calculated as in item (*a*) and of those owned by Government as in item (*b*) above.
(*d*)	Land relinquished by railways.	(*a*) When sold— Actual sale-proceeds, to be credited to the capital account of the railway. (*b*) When transferred to a Government Department or a Railway Administration. Market value at the time of transfer, to be credited to the capital account of the railway.	(*a*) When sold— Actual sale-proceeds, to be credited to "XXVIII. Subsidised Companies" (a minor head sale of land to be opened). (*b*) When transferred to a Government Department or a Railway Administration. Market value at the time of transfer, to be credited to "XXVIII. Subsidised Companies."

* *Notes.*—

(*i*) The expression 'market value' used in the Appendix is defined in S.O. No. 23, paragraph 2.

(*ii*) When land which has been set apart for the common use of the villages in estates as defined in the Madras Estates Land Act I of 1908 is transferred to the Railway Administration, the adjustments to be made in the accounts of the Railway Administration should be in accordance with orders in paragraph 3 of Board's Standing Order No. 91.

G.O. No. 2174, Revenue, dated 1st November 1927.
G.O. No. 2699, Revenue, dated 30th December 1927.

† Whether *incurred* by Civil or Public Works Disbursing Officers.

The following is the classification of railways in the Madras Presidency under the different columns of the abstract :—

Madras and Southern Mahratta Railway ..	Column 2.
South Indian Railway	Column 2.
Bengal-Nagpur Railway	Column 2.
Bezwada Extension Railway, Dhone-Kurnool Railway	Column 2.
All District Board Railways	Column 3.

Page 230, *Appendix VIII, column* 3 *of the statement.—For* "40 Subsidized Companies—Land" and "XXVIII. Subsidized Companies" wherever they occur in this column *substitute* "11. Subsidized Companies—Land" and "XII. Subsidized Companies" respectively.

[III list, 1-10-29]

APPENDIX IX.

THE LAND ACQUISITION (MINES) ACT BEING ACT NO. XVIII OF 1885.

[*Passed by the Governor-General of India in Council.* (*Received the assent of the Governor-General on the* 16*th October* 1885).]

An Act to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

Short title, commencement and local extent.

1. (1) This Act may be called "The Land Acquisition (Mines) Act, 1885;" and (2) It shall come into force at once; (3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant Governor of Bengal, but any other Local Government may, from time to time, by notification in the Official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

Saving for mineral rights of the Government.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Declaration that mines are not needed.

3. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(*a*) when he makes an award under section 14 of that Act, insert such a statement in his award;

(*b*) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(*c*) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

Notice to be given before working mines lying under land.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Power to prevent or restrict working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose ; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish in such a manner as the Governor-General in Council may, from time to time, direct, a declaration of its willingness, either—

(*a*) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same ; or

(*b*) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (*a*) is made then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (*b*) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

Mode of determining persons interested and amount of compensation.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee, or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

Mining communications.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor-General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Local Government to pay compensation for injury done to mines.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines, extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections, and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

And also for injury arising from any airway or other works.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

Power to officer of Local Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked, so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing,

enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

Construction of Act when land acquired has been transferred to a local authority or company.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections, the words "the local authority or company, as the case may be, which has acquired the land" were substituted.

Pending cases.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made in respect of the land an award under section 14 or a reference to the court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

16. In this Act—

Definition of local authority and company.

(*a*) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund, and

(*b*) "Company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

APPENDIX X.

MADRAS ACT No. VII OF 1920, CHAPTER VII.

Land Acquisition.

Modification of Land Acquisition Act.

33. Immovable property required for the purposes of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894, and may be acquired under the said Act modified in the manner provided in this chapter.

Notification under section 14 to have effect as declaration under section 6, Land Acquisition Act.

34. Notwithstanding anything in the Land Acquisition Act, 1894, a notification under section 14 shall operate in respect of any land required for the purposes of the scheme as a declaration under section 6 of the said Act, and no further declaration shall be necessary, but it shall not be incumbent on the Local Government, or officer authorized in that behalf, to take immediate steps for the acquisition of such land. Provided that if the land is not acquired within three years from the date of the notification, it shall cease to have effect as a declaration under section 6 of the Land Acquisition Act, 1894.

Sections 15, 23 and 24 of Land Acquisition Act superseded.

35. (1) The provisions of sections 15, 23 and 24 of the Land Acquisition Act, 1894, shall have no application in the acquisition of property for the purposes of this Act.

(2) In determining the amount of compensation to be awarded for land acquired under the said Act for such purposes the Collector and the court shall take into consideration—

(*a*) the market value of the land at the date of publication of the notification under section 10, sub-section (1), or section 12, as the case may be;

(*b*) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

(*c*) the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land or by reason of the acquisition injuriously affecting his other property movable or immovable in any other manner, or his earnings, provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed;

(*d*) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed.

(3) But the Collector and the court shall not take into consideration—

(*a*) the degree of urgency which has led to the acquisition or its compulsory character;

(*b*) any disinclination of the person interested to part with the land acquired ;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit ;

(*d*) any damage which is likely to be caused to the land acquired, after the date of publication of the notification under section 10, sub-section (1) or section 12, as the case may be, by or in consequence of the use to which it will be put ;

(*e*) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

(*f*) any outlay or improvements on the land acquired, commenced, made or effected after the date of publication of the notifications referred to in clause (*d*), unless they are covered by a permission obtained from the municipal council under section 17 ;

(*g*) any outlay or improvements on, or disposal of, the land acquired which, having regard to the time at which they were made and other circumstances, appear to have been commenced, made or effected with intent to obtain increased compensation ;

(*h*) the special suitability or adaptability, if any, of the land for any purpose, if that purpose is one to which it could be applied only in pursuance of statutory powers or for which there is no market apart from the special needs of a particular purchaser or the requirements of a Government department or any local or public authority.

(4) If the market value of any land or building is specially high by reason of the use thereof in a manner which could be restrained by any court, or is contrary to law or public policy or is detrimental to the health of the inmates of the building or to the public health, the amount of the increased value due to such user shall be disregarded in determining the amount of compensation

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APPENDIX XI.

THE INDIAN RAILWAYS ACT (ACT NO. IX OF 1890) CHAPTER III.

Construction and Maintenance of Works.

Authority of railway administrations to execute all necessary works.

7. (1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force—

(*a*) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads (lines of railway), ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper ;

(*b*) alter the course of any rivers, brooks, streams or water-courses for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses, or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway as the railway administration thinks proper ;

(*c*) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;

(*d*) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper ;

(*e*) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead ; and

(*f*) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor-General in Council.

Alteration of pipes, wires and drains.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain ;

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is ;

(*b*) a local authority, company or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

Temporary entry upon land for repairing or preventing accident.

9. (1) The Governor-General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor-General in Council, but in such a case shall within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance so far as may be (with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation).

Accommodation work.

11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely,—

(*a*) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, water-courses or other passages over or under or by the sides of the railway of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisions, namely :—

(*a*) A railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made.

(*b*) Save as hereinafter in this chapter provided, a railway administration shall not, except on the requisition of the Governor-General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic.

(*c*) Where a railway administration have provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the Governor-General in Council.

APPENDIX XII.

Form 1

Form of requisition

Column 1. Name of village.
,, 2. Survey number and letter.
,, 3. Extent.
,, 4. Purpose for which required.
,, 5. Boundaries.
,, 6. The name and designation of the departmental officer deputed for the joint inspection.

Certificate.

1. *Demarcation.*—That the site was pegmarked on the ground and the demarcation approved by a responsible officer.

2. *Plan.*—That accurate measurements are furnished in the plan attached.

3. *Objections.*—That the objections of the owners have been duly considered and that the selection of another suitable site less open to objection by the owners was found impossible.

4. *Funds.*—That provision has actually been made in the budget for the cost of acquisition.

Form 2.

Form of notification to be issued under section 4 *of Act I of* 1894 *as amended by Act XXXVIII of* 1923.

Whereas it appears to the Government that the land specified in the schedule below and situated in the village, taluk, district is needed for a public purpose, to wit, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894 as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and the Governor in Council hereby authorizes his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (*c*) of the same Act the Governor in Council appoints to perform the functions of a Collector under section 5-A of the Act.

Under sub-section (4) of section 17 of the Act, the Governor in Council directs that, in view of the urgency of the case, the provisions of section 5-A of the Act shall not apply to this case.

Schedule.

District.
Taluk.
Village.
Description of land, wet or dry, inam or poramboke with survey or paimash No.
Name of owner or occupier.
Boundaries of the land required to be taken up— North
East
South
West.

Note.—The provision under the urgency clause should be deleted when not required.

Form 3.

Notice under section 5-A of the Land Acquisition Act I of 1894 *as amended by the Land Acquisition Amendment Act XXXVIII of* 1923.

Notice is hereby given that the land specified in the appended schedule and situated in the village of in the taluk of in the district of is needed or is likely to be needed for a public purpose, to wit, for in accordance with the notification under section 4 (1) of the Land Acquisition Act I of 1894 as amended by the Land Acquisition Amendment Act XXXVIII of 1923 published by Government at page of Part I of the *Fort St. George Gazette*, dated . $\frac{\text{All persons interested in the land}}{\text{You}}$ are accordingly required to lodge before the within $\frac{30}{15}$ days from the date of $\frac{\text{publication of the above notification}}{\text{service of this notice}}$ a statement in writing of $\frac{\text{their}}{\text{your}}$ objections, if any, to the acquisition of the said land.

Any objection statement which does not clearly explain the nature of $\frac{\text{the sender's}}{\text{your}}$ interest in the land is liable to be summarily rejected.

Objections received within the due date, if any, will be enquired into on at when $\frac{\text{the objectors}}{\text{you}}$ will be at liberty to appear in person or by pleader and to adduce any oral or documentary evidence in support of $\frac{\text{their}}{\text{your}}$ objections.

Schedule.

Survey number.	Description.	Extent required.	Reputed owner.

Page 242, *form* 3.—***Substitute*** the words "Sections 4 (1) 5-A" *for* the words "Section 5-A" occurring in the headin[g] the form.

(G.O. No. 1898, Rev., dated 14th Sep. 1929.)

[II list, d. 16-9

FORM 4.

(Preliminary valuation statement.)

Form of statement to be prepared by an officer of the Revenue Department (jointly with an officer of the department requiring the land if a joint inspection with such officer is made) and to be submitted to and signed by the District Collector.

Department requiring land. (1)	Purpose for which land is required. (2)	Taluk. (3)	Village. (4)	Particulars of land required. Whether ryotwari, inam or zamindari. (5)	Boundaries. (6)	Number of field. (7)	Description, dry or wet. (8)	Area. (9)	Assessment or rental. (10)
								ACS.	RS.

Name of owner or occupier. (11)	Selling price of similar land in the vicinity or other data on which the estimate of the value of the land is based. (12)	Estimated value of Land. (13)	House. (14)	Wells. (15)	Trees. (16)	Total. (17)	Fifteen per cent addition allowable under section 23 (2) of Act I of 1894. (18)	Total compensation payable. (19)	Remarks. (20)
								RS.	

FORM 5.

Notification.

Under section 6 of the Land Acquisition Act the Governor in Council hereby declares that the land specified below and measuring acres be the same a little more or less, is needed for a public purpose, to wit, for and under sections 3 and 7 of the same Act, the is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. Under sub-section (1) of section 17 of the Act the Governor in Council further directs that the possession of the said land may be taken on the expiry of 15 days from the date of the publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the

and may be inspected at any time during office hours.

Schedule.

District. (1)	Taluk. (2)	Village. (3)	Description of land, wet or dry, inam or poramboke with survey or paimash number. (4)	Name of owner or occupier. (5)	Boundaries of the land required to be taken up. North. (6)	East. (7)	South. (8)	West. (9)	Extent to be taken up. (10)
									ACS.

NOTE.—The provision under the urgency clause should be deleted when not required.

FORM 6.

Notice under Sections 9 (1) *and* 10 *of the Land Acquisition Act I of* 1894 (*India*).

Notice is hereby given that Government propose to acquire the lands mentioned in the list below which are required for public purpose under Act I of 1894 (India). All persons interested in the lands are requested to appear in person or by authorized agent on

before

and $\frac{\text{to state}}{\text{put in a statement in writing signed by themselves or their agents showing}}$ the nature of their interest in the lands, the amount and particulars of their claims to compensation in respect of such interests and their objections (if any) to the measurements made under section 8 of the Act, and to put in a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceding the date of the statement.

Particulars of the lands.

Taluk.	Village	Name of owner or pattadar or other person interested in the land.	Inam, ayan or zamindari.	Wet or dry.	Field No.	Extent	Assessment.	Remarks.
						ACS.	RS. A. P.	

Form 7.

Notice under Sections 9 (3) and 10 of the Land Acquisition Act I of 1894 (*India*).

Collector of District.

Notice is hereby given that Government propose to acquire the lands mentioned in the list below, which are required for a public purpose under Act I of 1894 (India). You are required to appear in person or by authorized agent on before at and to state / put in statement in writing signed by you or your authorized agent showing the nature of your interest [in the lands, the amount and particulars of your claims to compensation in respect of such interest] and your objections (if any) to the measurements made under section 8 of the Act and to put in a statement containing so far as may be practicable, the name of every other person possessing any interest in the land or any part of it as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceding the date of the statement.

Particulars of the lands.

Taluk.	Village.	Name of owner, pattadar or other person interested in the land.	Inam, ayan or zamindari.	Wet or dry.	Field number.	Extent.	Assessment.	Remarks.
						ACS. CTS.	RS. A. P.	

Form 8.

Award.

No. dated

(To be filled in by the Land Acquisition Officer in his own hand.)

Made by

under section 11 of the Land Acquisition Act I of 1894.

Whereas an extent of land measuring acres and situated in the village of in the taluk of in the registration sub-district of in the district of and registered in the name of, or occupied by, the persons specified below, has been declared by Government at page of the *Fort St. George Gazette*, Part , dated , to be needed for the undersigned after full enquiry into the case and on due consideration of the various circumstances connected with the acquisition as herebefore set forth, makes the following award under his hand :—

(i) The true area of the land is acres

(ii) The compensation allowed for the land is Rs as shown below :—

	RS.	A.	P.
(*a*) (1) The market value of the land subject to full assessment, peshkash or ground-rent as the case may be and in the case of house-site held free, its market value as such, exclusive in all cases of trees, buildings and standing crops, at Rs. —vide Board's Standing Order No. 90, paragraph 14 (i) (1).			
(2) In the case of inams other than those mentioned in paragraph 14 (ii) of Board's Standing Order No. 90, compensation for loss of privilege calculated at 20 times the assignment of Government revenue to which the inamdar is entitled—vide Board's Standing Order No. 90, paragraph 14 (i) (2).			
(3) In the case of inams coming under paragraph 14 (ii) of Board's Standing Order No. 90, the amount of net assessment guaranteed to the inamdar at the time of the inam settlement on the extent acquired, which represents the melvaram interest is Rupees *Note.*—The value of the compensation for the kudivaram interest is to be entered against item (ii) (*a*) (1) above.			
(*b*) Valuation on account of buildings, wells, crops, trees, etc.			
(*c*) 15 per cent on items (*a*) (1) and (2) and (*b*).			
(*d*) Other damages, if any (to be specified).			
Total ..			

Rupees

(iii) The person or persons to whom the compensation is due—

Serial number.	Name.	RS. A. P.

Survey or paimash number.	Extent.	Name of registered holder or occupier.	Boundaries of the land.			
			North.	East.	South.	West.

The undersigned certifies that—

(*a*) Notices have been promulgated or served in accordance with section 9 of the Land Acquisition Act and that evidence of such promulgation or service forms part of the record.

(*b*) There is before him a plotted plan of the land or lands to be acquired.

Land Acquisition Officer.

FORM 9.

Notice of award under section 12 (2) *of Act I of* 1894.

The following award has been passed by the undersigned in the matter of the acquisition of the lands noted below and situated in village, taluk:—

Survey number and subdivision.	Extent.	Amount awarded.	Persons to whom award is made.

is/are hereby informed that he/they should appear either in person or by an authorized agent before the undersigned within days after the issue of this notice, and receive the amount specified above, failing which the said sum of money will be kept in Revenue deposit and will bear no interest.

STATION,
Date 19 .

Land Acquiring Officer.

FORM 10.

Notice under Act I of 1894.

To

Take notice that the marginally-noted property has been acquired by Government under the Land Acquisition Act I of 1894 for____________

____

____

as per notification in the *Fort St. George Gazette*, dated page , Part , and that you should vacate and deliver possession of it before the evening of the to the who has received necessary instructions in the matter. If you fail to do so, the will be addressed to enforce the surrender of the property to this department under section 47 of the Land Acquisition Act.

STATION,
Date 19 .

Land Acquisition Officer.

FORM 11.

OFFICE,

No.

________________ 19 .

From

Land Acquisition Officer,

To

____

____

____

Reference.—Acquisition of land for______________________________

SIR,

With reference to the correspondence ending with_________letter No.________, I have the honour to inform you that_______ acres_________cents of land have been acquired on your behalf.

Please arrange to depute an officer of your department to take possession of the land from the Revenue Inspector of_______________________ at____________________on____________________19 .

I have the honour to be,
Sir,
Your most obedient servant,
Land Acquisition Officer.

FORM 12.

Statement of land required to be temporarily occupied for (note the purpose here).

District.	Taluk.	Village.	Description of land, inam or Government, wet or dry, with survey or paimash number.	Name of owner or occupier.	Boundaries of the land required to be occupied.			
					North.	East.	South.	West.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Extent to be occupied.	The probable compensation payable for the occupation of the land.	The authority sanctioning the estimate for the work for which the land is required, i.e., whether sanctioned in a Government Order or by the Superintending Engineer in his Circle Register number.	The amount of the sanctioned estimate.	The total amount provided for land in the sanctioned estimate.
(10)	(11)	(12)	(13)	(14)

Form 13.

Return of lands acquired under the Land Acquisition Act (to be forwarded to the Registration Department.)

1	2	3									
		Name and description of property acquired.									
Name and designation of the officer who made the award.	Date of award.	Names of the sub-district and village.	Name of the land, if any.	Survey number or sub-number or letter or paimash number.	Boundaries.				Extent.	Classification of land as Government or inam or zamindari and as wet, dry, or garden.	Houses, buildings, trees or hills, if any, situated on the land and their description, name of the street and door number being given in the case of house property.
					North.	East.	South.	West.			
(1)	(2)	(3-*a*)	(3-*b*)	(3-*c*)	(3-*d*)	(3-*e*)	(3-*f*)	(3-*g*)	(3-*h*)	(3-*i*)	(3-*j*)

4				5						6
Nature of the interest in immovable property transferred, the purpose, etc.				Name and description of person to whom the property belonged.						
Nature of the interest in immovable property transferred.	The purpose for which the transfer was made.	The nature of compensation awarded.	Amount or value of compensation awarded.	Name (including rank and title).	Father's name in the case of males, and the husband's name in the case of females when a person is usually described as the son of his mother, then his mother's name.	Residence.	Profession.	Caste.	Name and description of the person to whom the property has been transferred.	Remarks.
(4-*a*)	(4-*b*)	(4-*c*)	(4-*d*)	(5-*a*)	(5-*b*)	(5-*c*)	(5-*d*)	(5-*e*)	(5-*f*)	(6)

NOTE.—A copy of this return should be sent to every Sub-Registrar in whose sub-district any portion of the property referred to in the award is situated.

FORM 14.

Statement of compensation in other forms than money for land taken up for public purposes.

Taluk and village.	Serial number.	Classification of land, whether ryotwari, inam or zamindari; if inam, whether personal or for religious, State or charitable service, and whether enfranchised or unenfranchised.	Entire estate, inam or Zamindari.			Particulars of land taken up.				Nature of Compensation.										When the fixed annual payment takes the form of reduction of peshkash, jodi or quit-rent total reduction made [columns 9 and 19].	Future peshkash or quit-rent, viz., the amount chargeable after making the deduction in column 9 or column 21 as the case may be.	Purpose for which the land was taken up.	Remarks.
										A. Fresh Grant of land.							B. Fixed annual payment.						
			Extent in acres.	Assessment.	Jodi, quit-rent or peshkash.	Extent in acres.	Assessment.	If inam or zamindari, proportionate jodi, quit-rent or peshkash.	Value of the occupancy right [*a. i.e.*, of the land subject to full assessment *a*].	Village.	Description.	Extent in acres.	Assessment.	Tenure on which the grant is made (ryotwari or inam).	Jodi or quit-rent (if any) charged when grant is made on inam tenure.	Value of the occupancy right in the fresh grant [*a. i.e.*, subject to full assessment *a*].	Nature of the fixed payment.	Amount of the fixed payment.	How the amount in column 19 has been fixed.				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)
			ACS.	RS.	RS.	ACS.	RS.	RS.	RS.			ACS.	RS.		RS.	RS.		RS.		RS.	RS.		

NOTE.—(1) When land is taken up for a local board or municipality and compensation is granted by an exchange of Government land or an abatement of land revenue, or when inam or zamindari land is taken up for a local body and proportionate reduction of jodi, quit-rent or peshkash is allowed to the proprietor in respect thereof, it should be noted in the remarks column whether the loss to Government of the value of land or of revenue has been or will be made good by the local body concerned or whether the local body will be exempted from payment under the rules on the subject of alienations.

(2) The annual statement should include cases dealt with by Collectors under clause 4 of section 31 of Act I of 1894, not those sanctioned by Government under clause 3 of the section.

(3) Columns (10) and (17) may be filled up by quoting the net annual income with the words "per annum" added to the amount instead of the capitalized value of the occupancy right.

(4) *a* Where the assessment has not been fixed, an approximate estimate thereof should be entered in columns (5) and (14*a*).

Form 15.

Return of lands granted in exchange.

1										2	3	4					
Name and description of property granted in exchange.										Nature of interest in immovable property granted.	Name and description of the person to whom the property granted belonged.	Name and description of person to whom the property was granted.					
Names of the sub-district and village.	Name of the land, if any.	Survey number or sub-number or letter or paimash number.	Boundaries.				Extent.	Classification of land (Government or inam, zamindari, wet, dry or garden).	Houses, buildings, trees or hills, if any, situated on the land and their description. Name of street and door number in the case of house property.			Name (including rank and title).	Father's name in the case of males and husband's name in the case of females. Where a person is usually described as the son of his mother, then his mother's name.	Residence.	Profession.	Caste.	Remarks.
			North.	East.	South.	West.											
1 (a)	1 (b)	1 (c)	1 (d)	1 (e)	1 (f)	1 (g)	1 (h)	1 (i)	1 (j)	2	3	4 (a)	4 (b)	4 (c)	4 (d)	4 (e)	(5)

Form 16.

Schedule under Section 19 (2) of the Land Acquisition Act, giving particulars of statements made in writing.

From whom.	Date of statement.	Date of receipt.	Abstract of statement.	Remarks.

Schedule under Section 19 (2) of the Land Acquisition Act, giving particulars of notices served.

Description of notice.	Date.	Name of person.	When served.	How served.
Notice under sections 9 (3) and 10 of the Act. Notice under section 12 (2) of the Act.				

Date 19 . *Land Acquisition Officer.*

Form 17.

Title-deeds to be issued to the purchasers of relinquished land.

I

Title-deed to be granted to the purchaser when the relinquished land is sold under clause (iv), paragraph 32, Standing Order No. 90, subject to ryotwari assessment either at its cost price or at its current market value.

Whereas has purchased the land specified below to be held on ryotwari tenure subject to an assessment of Rs. , and has paid into the treasury at the sum of Rs. , being the purchase-money of the said land, I hereby, acting under the authority of the Secretary of State for India in Council, grant the said land to the said and his representatives and assigns to be held by him and them as aforesaid subject to all the conditions and incidents of ryotwari tenure and the further condition that alienation of the land, without the sanction of Government, to a person other than a British subject or a subject of a Native State shall invalidate the grant :—

Specification of the land.

District and registration district.	Registration sub-district.	Taluk and village.	Field.			Extent.	Assessment.	Date of sale.	Date of payment.
			Number.	Letter.	Name.				
						ACS.	RS. A. P.		

2 OCT

Page 254, Part IV, Appendix XII—Form 17.—Insert the following as the second sentence in the form of the title deed to be issued to purchasers of relinquished lands :—

The right of Government shall be reserved to all gold and other minerals or coal and stone or rock containing or supposed to contain gold and other minerals or coal known to exist or which may at any time hereafter be discovered on, in or under the land aforesaid or any part thereof, and the purchaser, his heirs or assigns shall not be at liberty to work the said gold and other minerals or coal, except after permission or licence duly obtained from Government.

[XX list, 26-9-31]

II

Title-deed to be granted when the land relinquished was held on inam or zamindari tenure at the time of the acquisition and is restored under clause (iv), paragraph 32, Standing Order No. 90, to the original proprietor at cost price subject to such occupancy right, if any, as existed in respect of the land before its acquisition.

WHEREAS has purchased the land, specified below to be held on inam (or zamindari) tenure subject to a quit-rent (or peshkash) of Rs. , and has paid into the treasury at the sum of Rs. , being the purchase-money of the said land, I hereby, acting on behalf of the Secretary of State for India in Council, grant the said land to the said and his representatives and assigns to be held by him and them subject to the quit-rent (or peshkash) and to all the conditions and incidents of the title-deed (or permanent sanad) issued in respect of the land before the acquisition of the same for public purposes and subject also to such occupancy rights, if any, as existed in respect of the said land before its acquisition as aforesaid, which occupancy rights are hereby revived :—

Specification of the land.

District.	Taluk and village.	Name of estate or number of title-deed, if inam.	Number and name of field, if any.	Extent.	Assessment.	Proportionate quit-rent or peshkash.	Date of sale.	Date of payment.
				ACS.	RS. A. P.	RS A. P.		

III

Title-deed to be granted to the purchaser of the occupancy right in land of the description contemplated in Form II above when such right is sold separately.

WHEREAS has purchased the occupancy right in the land specified below to be held subject to the rights in the said land of the inamdar (or zamindar) of , and has paid into the treasury at the sum of Rs. , being the purchase-money of the occupancy right, I hereby, acting on behalf of the Secretary of State for India in Council, grant the said occupancy right to the said and his representatives and assigns to be held by him and them subject to the same conditions and incidents of occupancy right as were in force before the acquisition of the said land for public purposes and which conditions and incidents are hereby revived :—

Specification of the land.

District.	Taluk.	Estate or village and number of title-deed, if inam.	Number and name of field, if any.	Extent.	Assessment.	Date of sale.	Date of payment.
				ACS.	RS. A. P.		

Form 18.

Application for the disposal under paragraph 32 of Board's Standing Order No. 90 of agricultural or pastoral lands originally acquired for public purposes and subsequently relinquished.

District. (1)	Taluk. (2)	Village. (3)	Survey number. (4)	Description of land at the date of acquisition (i.e.) whether ryotwari, inam, zamindari and whether wet, dry or garden. (5)	Extent. (6)	Assessment, peshkash or quit-rent. (7)

Compensation paid by Government inclusive of the 15 per cent allowance for compulsory acquisition. (8)	Present market value of the land. (9)	Whether the land has deteriorated in its fitness for agricultural purposes while in the occupation of Government. (10)	Divisional Officers' recommendation—whether the land should be sold to the owner of the adjoining land or sold by public auction. (11)

N.B.—This form does not apply to land used as building site which should be disposed of under Standing Order No. 21 or to land situated within half a mile of any railway station (vide G.O. No. 5005, dated 8th December 1896, communicated with B.P. No. 166, dated 5th July 1898, and B.P. No. 279, dated 13th November 1899).

Note.—In column (11) it should be explained why the land has not been re-assigned to the original owner or his heirs.

Page 256, *Appendix XII*, *Form* 18.—*Delete* the words "which should be disposed of under Standing Order No. 21" in the note under the form.

[III list, 1-10-29]

Form 19.

Special Register of papers relating to acquisition of land for public purposes.

Serial number. (1)	Date of requisition. (2)	Department from which the requisition has been received. (3)	Purpose of acquisition. (4)	Date of submission of the notification under section 4 (1). (5)	Date of the publication of the notification in the official gazette. (6)	Number and date of the letter submitting the draft declaration under section 6. (7)	Date of the publication in the official gazette of the declaration under section 6. (8)	Date of the award. (9)	Serial number and date of the award statement. (10)	Date of taking possession. (11)	Date of completion of proceedings and closing of the file. (12)

Note—*Column* (7).—The letter should be given a R. Dis. number.
Column (8).—The Government Order ordering the publication of the declaration should be given a separate current number which should be entered within brackets in this column.

Form 20.

Annual statement.

Statement showing applications for land required for public purposes (including railways) pending for one year or more on 1st January.

Serial number. (1)	Name of the department applying. (2)	Date of application. (3)	Date of submission of the notification under section 4. (4)	Date of publication of the notification under section 4. (5)	Date of enquiry. (6)	Date when the report of enquiry was submitted to the Board. (7)	Date when Government's final orders on the proposal were received. (8)	Date of submission of draft declaration. (9)	Date of publication of declaration. (10)	Date of award. (11)	Date of transfer of land. (12)	Date of payment or deposit in court of the compensation. (13)	Explanation of the delay at any stage. (14)

Note.—A case is pending until all the owners have been compensated by payment in money or by grant of other land or remission of revenue or until the compensation had been deposited in court.

B.P. No. 92, dated 8th May 1918.

FORM 21.

Land Acquisition Check Memorandum.

QUESTIONS.	ANSWERS.
1. Number and name of the village and name of the taluk.	
2. Whether the village is ryotwari, inam or zamindari.	
3. Whether the village is surveyed or not.	
4. Date of application for the acquisition of the land.	
5. The purpose for which land is required.	
6. Date of publication of the notification under section 4 of the Land Acquisition Act.	
7. Date of publication of the notification under section 5 or 17 (*b*) (ii) of the Survey and Boundaries Act. *Note.*—The above question applies only to non-Government villages.	
8. Date of publication of the notification under clause 1 to section 4 of the Survey and Boundaries Act.	
9. Date of publication of the notification under section 6 of the Survey and Boundaries Act. Is the Village Officer's certificate of publication in the file.	
10. Date of preparation of the plotted sketch by the Revenue Inspector, Surveyor or Draughtsman.	
11. Does the plotted sketch or demarcation sketch in the case of acquisition for large projects bear the Revenue Inspector's or Surveyor's certificate of demarcation? What is the date of it?	
12. Date of countersignature by the Inspecting Tahsildar or the Special Land Acquisition Officer of the sketch in token of technical scrutiny. *Note.*—Even sketches of entire old fields or registered subdivisions require technical scrutiny. They should also bear the certificate of demarcation referred to in Question 11.	
13. Date of publication of the declaration under section 6 of the Land Acquisition Act, and the area notified for acquisition—(*a*) ryotwari, (*b*) inam, (*c*) other lands with description.	
14. Date of publication of the notice mentioned in section 9 (1) of the Land Acquisition Act. Is the Village Officer's certificate of publication	

Pages 258–259.—*For* questions Nos. 14 and 15 in form No. 21 *substitute* :—

14. Date of publication of the notice mentioned in section 9 (1) of the Land Acquisition Act. Is the village officer's certificate of publication in the file? Date of service of the notices under section 9 (3) of the Land Acquisition Act. Are the acknowledgments in respect of them in the file?

15. Date of service of the notices under section 9 (2) or 10 (2) of the Survey and Boundaries Act. Are the acknowledgments in respect of them in the file?

(G.O. Mis. No. 135, Rev., dated 20th January 1931.)

[XIV list, 20-1- 1]

QUESTIONS.	ANSWERS.
in the file? Are the acknowedgments in respect of the notices under section 9 (3) of the Land Acquisition Act in the file?	
15. Are the acknowledgments in respect of the notices under section 9 (2) or 10 (2) of the Survey and Boundaries Act in the file?	
16. Date of the award enquiry under section 11 of the Land Acquisition Act.	
17. Area withdrawn from acquisition, if any, and date of publication of the notification under section 48 (1) of the Land Acquisition Act.	
18. Date of passing the award and the areas acquired.	
19. Is the award drawn up in the form standardized in B.P. No. 33, dated 6th June 1927, and is a copy of the proceedings discussing the grounds of valuation in the file?	
20. Date of despatch of the Code Form A (T & A 54) to the Audit Office.	
21. Date of despatch of the Code Form AA (T & A 55) to the Audit Office.	
22. Have notices under section 12 (2) of the Land Acquisition Act been issued promptly wherever necessary and are their acknowledgments in the file?	
23. Date of handing over possession of the land to the department requiring it.	
24. Date of submission of proposals to the Collector for the grant of beriz deduction or for the reduction of quit-rent or peshkash.	
25. In cases involving resurvey on account of obliteration of field boundaries or formation of new fields [vide revised B.S.O. No. 34-A-11 (*b*)], have the lands for acquisition as well as the residual fields been resurveyed and have resurvey sketches with the necessary adjustment and subdivision statements been prepared by the Revenue Inspector or Surveyor and verified by the Inspecting Tahsildar or the Special Officer for Land Acquisition?	
26. Date of despatch of the form printed in Appendix V to B.S.O. No. 90 to the Registration Department by or through the Revenue Divisional Officer.	

Note.—The above return should be despatched only after the completion of resurvey, if any, referred to in Question 25.

QUESTIONS.	ANSWERS.
27. When the Land Acquisition Officer is not himself the Revenue Divisional Officer, date of despatch to the Revenue Divisional Officer of the duplicate copies of the revised field maps, the subdivisions and adjustment statements and the demarcation sketch.	
28. Has the acquisition been entered in Taluk Register No. 7? What is the number of the item in the register?	
29. If the acquisition involved new field or subdivision, has the case been entered in Taluk 8-A Register? If so, what is the number of the item in the register?	
30. Date of (*a*) the insertion of the new field maps or the plotting of the new subdivisions in the village copy of the field measurement book (or the record of measurement and revenue map in a surveyed town) and (*b*) entry in permanent A Register.	
31. Date of (*a*) plotting of the new fields or subdivisions in the Town Surveyor's copy of the record of measurement and revenue map and the Chairman's copy of revenue map and (*b*) entry in Town Survey Register in a surveyed town.	
32. Were the survey records sent to the Inspecting Tahsildar after the incorporation of changes in the village accounts for final scrutiny and for correction of the maintained set of village maps where necessary? What is the number of the item in the Inspecting Tahsildar's Subdivision Register?	
33. Date of (*a*) the insertion of the new field maps or the plotting of the new subdivisions in the Taluk copy or field measurement book (or the record of measurement and revenue map in a surveyed town) and (*b*) entry in permanent A Register.	
34. Date of the publication of the notification under section 13 of the Survey and Boundaries Act in the District Gazette.	
35. Date on which the land acquisition file was closed and its disposal number.	
36. Date on which copy of the check memorandum was submitted to the Collector.	

72653

(*b*) that the Company shall pay to the Government of Madras ınually the appropriate assessment or ground-rent, as the case may be, n the land which shall be liable to revision at any general revision of the ınd revenue settlement.

*   *   *   *

(H.E. the special clauses to be provided for in each case.)

(   ) that in the event of the Company being wound up or in the event of failure on the part of the Company to carry out the terms of the agreement, that is to say

the land shall be liable to be resumed and taken back by the said Government on re-payment to the Company of the amount of the award as finally settled less the 15 per cent awarded for compulsory acquisition or the estimated market value of the land at the time of resumption whichever shall be less ınd if there are any buildings on the land, the Secretary of State may at ıis option either purchase the buildings on payment of their estimated alue at the time, or direct the Company to remove the buildings at its wn cost within such time as may be allowed by the said Government.

4. All the costs and expenses of, and incidental to, the preparation and execution of this agreement (including stamp duty and costs of registration, if registration be required by the said Government) shall be paid by the company.

In witness whereof the seal of the Company hath hereunto been ffixed and the indenture executed for and on behalf of the Company y

ıd Mr. Secretary
o the Government of Madras, Revenue Department, by order and direc-ion of His Excellency the Governor of Fort St. George in Council acting for and on behalf of the Secretary of State for India in Council hath hereunto set his hand the day and year first above written.

Schedule above referred to

Registration District.

Sub-district.

Name of village or town.

Description of land, wet or dry, with Survey Nos., boundaries and area, etc.

Signature.

Witnesses—

1.

2.

Signed, sealed and delivered by the above named in the presence of

1

2.

[IV list, 10-10-29]

FOURTH LIST OF CORRECTIONS TO THE LAND ACQUISITION MANUAL.

Add the following as Form No. 22 to Appendix XII :—

FORM No. 22.

Draft form of agreement under section 41 of the Land Acquisition Act.

Articles of agreement made the day of 19 between the a company registered under and having its office at (hereinafter called 'the company') of the one part and the Secretary of State for India in Council (hereinafter called the 'Secretary of State') of the other part.

WHEREAS, upon the application of the company, the Government of Madras have agreed to acquire on behalf of the Company under the provisions of the Land Acquisition Act, 1894 (I of 1894) the pieces or parcels of land described and delineated in the Schedule hereto annexed and situated in village taluk district it having been shown to the satisfaction of the said Government that the proposed acquisition is needed for the construction of a work likely to prove useful to the public, namely, and whereas the said Government have called upon the Company under the provisions of section 41 of the said Act to enter into the agreement with the Secretary of State hereinafter contained. Now these presents witness and it is hereby agreed and declared as follows :—

The Company shall pay to the Government of Madras before the said land is transferred to the Company the cost of the land as settled by the Collector, or if reference is made to the court, by the final court of appeal, and all costs of acquisition inclusive of all payments and allowances in respect thereof payable under the said Act and all court costs and Pleader's fees, etc., incurred by the said Government in defending the reference, if any, made to the court as aforesaid and on appeal or appeals filed in connexion therewith and all costs, Pleader's fees, etc., payable or paid by the said Government to the claimant in the said matters. The said Government shall not be bound to give possession of the land until all the said moneys have been paid and may withdraw from the acquisition, and in case of withdrawal the Company shall be liable to indemnify the said Government against all expenses incurred and damage sustained as the result of anything done by them in the matter of acquisition till the date of withdrawal.

2. Upon such payment by the Company the Secretary of State shall execute and do all such acts, deeds, matters and things as may be necessary or proper for effectively vesting the said land in the Company and giving the Company an absolute title thereto subject to the payment of an assessment or ground-rent as hereinafter provided.

3. The terms upon which the said land shall be held by the Company are :—

(*a*) that the land shall be used for the

Page 260, *Appendix XII*, *Form* 21, *Question* 27.—*For* the words "the subdivision and adjustment statements" *substitute* the words :—

"The subdivision statements and the statements of changes due to land acquisition."

(G.O. No. 2005, Rev., dated 20th Nov. 1929.)

[V list, d. 20-11-29]